

TO ESTABLISH A COMMISSION OR TASK FORCE TO  
EVALUATE THE BACKLOG OF DISABILITY CLAIMS OF  
THE DEPARTMENT OF VETERANS AFFAIRS

SEPTEMBER 27, 2013.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 2189]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2189) to establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

|                                                                         | Page |
|-------------------------------------------------------------------------|------|
| Amendment .....                                                         | 2    |
| Purpose and Summary .....                                               | 20   |
| Background and Need for Legislation .....                               | 21   |
| Hearings .....                                                          | 34   |
| Subcommittee Consideration .....                                        | 34   |
| Committee Consideration .....                                           | 35   |
| Committee Votes .....                                                   | 36   |
| Committee Oversight Findings .....                                      | 36   |
| Statement of General Performance Goals and Objectives .....             | 36   |
| New Budget Authority, Entitlement Authority, and Tax Expenditures ..... | 36   |
| Earmarks and Tax and Tariff Benefits .....                              | 36   |
| Committee Cost Estimate .....                                           | 36   |
| Congressional Budget Office Estimate .....                              | 37   |
| Federal Mandates Statement .....                                        | 45   |
| Advisory Committee Statement .....                                      | 45   |
| Constitutional Authority Statement .....                                | 45   |
| Applicability to Legislative Branch .....                               | 45   |
| Statement on Duplication of Federal Programs .....                      | 45   |
| Disclosure of Directed Rulemaking .....                                 | 46   |
| Section-by-Section Analysis of the Legislation .....                    | 46   |
| Changes in Existing Law Made by the Bill as Reported .....              | 51   |

## AMENDMENT

The amendments are as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Table of contents.  
Sec. 2. Scoring of budgetary effects.

## TITLE I—IMPROVEMENT OF CLAIMS PROCESSING

- Sec. 101. Evaluation of backlog of disability claims and appeals of claims of Department of Veterans Affairs.  
Sec. 102. Supplemental reports to the Strategic Plan to Eliminate the Compensation Claims Backlog.  
Sec. 103. Expedition of transfer of certain records.  
Sec. 104. Claims processors training.  
Sec. 105. Report by Comptroller General of the United States.  
Sec. 106. Priority for processing claims of the Department of Veterans Affairs.  
Sec. 107. Public availability of certain information about pending and completed claims for compensation under the laws administered by the Secretary of Veterans Affairs.  
Sec. 108. Annual report on processing of claims.  
Sec. 109. Department of Veterans Affairs notice of average times for processing claims and percentage of claims approved.  
Sec. 110. Claim defined.

## TITLE II—COMPENSATION AND PENSIONS

- Sec. 201. Improvements to authority for performance of medical disabilities examinations by contract physicians.  
Sec. 202. Consideration by Secretary of Veterans Affairs of resources disposed of for less than fair market value by individuals applying for pension.  
Sec. 203. Bifurcated payments of compensation benefits under laws administered by the Secretary of Veterans Affairs.  
Sec. 204. Pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities.

## TITLE III—OTHER MATTERS

- Sec. 301. Review of operation of certain ships during the Vietnam Era.  
Sec. 302. Methods for validating certain service considered to be active service by the Secretary of Veterans Affairs.  
Sec. 303. Designation of American World War II Cities.  
Sec. 304. Observance of Veterans Day.

**SEC. 2. SCORING OF BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

## TITLE I—IMPROVEMENT OF CLAIMS PROCESSING

**SEC. 101. EVALUATION OF BACKLOG OF DISABILITY CLAIMS AND APPEALS OF CLAIMS OF DEPARTMENT OF VETERANS AFFAIRS.**

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

(b) **STUDIES.**—

(1) **BACKLOG STUDY.**—

(A) **IN GENERAL.**—The Commission or Task Force, acting through the subcommittee described in subsection (d)(2)(A), shall carry out a study on the backlog of claims, including the current process the Secretary of Veterans Affairs uses to evaluate claims and appeals and the laws and regulations applicable to such claims and appeals. Such study shall be a comprehensive evaluation and assessment of the backlog of claims, an analysis of possible improvements to the procedures used to process such claims, and any related issues that the Commission or Task Force considers relevant.

(B) **MATTERS INCLUDED.**—In carrying out the study under subparagraph (A), the Commission or Task Force shall examine the following:

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

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

(II) with respect to the Department, the annual funding, number of full-time employees, workload management practices, and the progress, as of the date of the study, of the strategic plan.

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

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

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

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

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

(2) APPEALS PROCESS STUDY.—

(A) IN GENERAL.—The Commission or Task Force, acting through the subcommittee described in subsection (d)(2)(B), shall carry out a study on the anticipated increase of appeals of claims, including the current appeals process and the laws and regulations applicable to such appeals. Such study shall be a comprehensive evaluation and assessment of such anticipated increase of appeals claims, an analysis of possible improvements to the procedures used to process such appeals, and any related issues that the Commission or Task Force considers relevant.

(B) MATTERS INCLUDED.—In carrying out the study under subparagraph (A), the Commission or Task Force shall examine the following:

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

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

(II) with respect to both the Board and the Court of Appeals for Veterans Claims, the annual funding, number of full-time employees, workload management practices, and the progress, as of the date of the study, of the strategic plan; and

(III) the efficiency, effectiveness, and utility of the Veterans Benefits Management System with respect to appeals operations, including an identification of key changes that may need to be implemented to such system.

(ii) Possible improvements to the appeals process, including an evaluation and recommendations with respect to whether substantive and structural changes to the overall appeals process are required.

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

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

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

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

(IV) the necessity of the multi-tiered levels of appeals at the regional office level, including filing a notice of disagreement, receipt of a statement of the case, supplemental statement of the case (if applicable), and substantive appeal (VA Form 9);

(V) the role of the Board and the Appeals Management Center, including—

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

(bb) whether the Board and Center should be regionalized or maintain the centralized structure in the District of Columbia;

(cc) whether Board members should be required to pass the administrative law judges certification examination; and

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

(VI) the role of the Court of Appeals for Veterans Claims and the United States Court of Appeals for the Federal Circuit, including—

(aa) the continued effectiveness and necessity of a multi-tiered structure of judicial review;

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

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

(dd) the possibility of expanding judicial review of claims to all Federal circuit courts of appeals or allowing judicial review

beyond the Court of Appeals for Veterans Claims only by the Supreme Court.

(3) CONSIDERATION.—In carrying out the studies under paragraph (1)(A) and (2)(A) and making any recommendations under this section, the Commission or Task Force shall consider the following:

(A) The interests of veterans, including with respect to accuracy, fairness, and transparency in the claims process of the Department.

(B) The values and requirements of the Constitution, including with respect to compliance with procedural and substantive due process.

(C) The public interest, including with respect to the responsible use of available resources.

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

(E) With respect to the study conducted under paragraph (2)(A), the importance of an appeals process that is efficient and easily understandable by a claimant.

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

(A) INFORMATION.—In carrying out each study under paragraph (1)(A) and (2)(A), at times that the Commission or Task Force determines appropriate, the Commission or Task Force shall submit to the Secretary of Veterans Affairs, the Chairman of the Board, and the Chief Judge of the Court of Appeals for Veterans Claims, as the case may be, information with respect to remedies and solutions that the Commission or Task Force identifies pursuant to such a study.

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

(i) fully consider the remedies and solutions submitted to the Secretary, the Chairman, or the Chief Judge, as the case may be, under subparagraph (A);

(ii) implement such remedies and solutions as the Secretary, the Chairman, or the Chief Judge, respectively, determines appropriate; and

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

(C) PLAN.—The Commission or Task Force shall submit to the Secretary, the Chairman of the Board, and the Chief Judge a feasible, timely, and cost-effective plan to eliminate the backlog of appeals of claims based on the remedies and solutions identified pursuant to the study under paragraph (2)(A) and the information submitted under subparagraph (A).

(c) COMPREHENSIVE REPORTS.—

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

(A) the findings of the causes of the backlog of claims;

(B) a proposed plan to handle the anticipated surge in appeals of claims; and

(C) the level of cooperation the Commission or Task Force has received from the Secretary and the heads of other departments or agencies of the Federal Government.

(2) INTERIM COMPREHENSIVE REPORTS.—Not later than 90 days after the date on which the Commission or Task Force first meets, and each 30-day period thereafter ending on the date on which the Commission or Task Force submits the final comprehensive report under paragraph (3), the Commission or Task Force shall submit to the President and Congress a comprehensive report on—

(A) the progress of the Secretary with respect to implementing solutions to expedite the elimination of the backlog of claims pursuant to subsection (b)(4)(B)(ii);

(B) the progress of the Secretary, the Chairman of the Board, and the Chief Judge of the Court of Appeals for Veterans Claims with respect to implementing solutions to complete appeals of claims in a timely manner in a timely manner pursuant to such subsection; and

(C) the level of cooperation the Commission or Task Force has received from the Secretary and the heads of other departments or agencies of the Federal Government.

(3) FINAL COMPREHENSIVE REPORT.—Not later than 180 days after the date on which the Commission or Task Force first meets, the Commission or Task

Force shall submit to the President and Congress a comprehensive report on the following:

- (A) With respect to the study conducted under subsection (b)(1)(A)—
  - (i) The findings, conclusions, and recommendations of the Commission or Task Force with respect to the matters referred to in such subsection.
  - (ii) The recommendations of the Commission or Task Force for revising and improving the backlog of claims and the procedures used to process claims.
  - (iii) The progress of the Secretary with respect to implementing solutions to expedite the elimination of the backlog of claims pursuant to subsection (b)(4)(B)(ii).
  - (iv) Other information and recommendations with respect to claims as the Commission or Task Force considers appropriate.
- (B) With respect to the study conducted under subsection (b)(2)(A)—
  - (i) The findings, conclusions, and recommendations of the Commission or Task Force with respect to the matters referred to in such subsection.
  - (ii) The recommendations of the Commission or Task Force for revising and improving the appeals process;
  - (iii) The information described in subsection (b)(4)(A).
  - (iv) The feasible, timely, and cost effective plan described in subsection (b)(4)(C).
  - (v) The progress of the Secretary, the Chairman of the Board, and the Chief Judge of the Court of Appeals for Veterans Claims with respect to implementing solutions to provide timely appeals of claims.
  - (vi) Other information and recommendations with respect to the appeals process as the Commission or Task Force considers appropriate.
- (d) MEMBERSHIP.—
  - (1) NUMBER AND APPOINTMENT.—The Commission or Task Force shall be composed of 15 members, appointed as follows:
    - (A) Two members appointed by the Speaker of the House of Representatives, one of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (B) Two members appointed by the minority leader of the House of Representatives, one of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (C) Two members appointed by the majority leader of the Senate, one of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (D) Two members appointed by the minority leader of the Senate, one of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (E) Three members appointed by the President, two of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (F) One member appointed by the Secretary of Defense, whom shall be designated to serve upon the Subcommittee on the Backlog of Claims.
    - (G) Two members appointed by the Secretary of Veterans Affairs, one of whom shall be designated to serve upon the Subcommittee on the Backlog of Claims and one of whom shall be designated to serve upon the Subcommittee on Appeals.
    - (H) One member appointed by the Chief Judge of the Court of Appeals for Veterans Claims, whom shall be designated to serve upon the Subcommittee on Appeals.
  - (2) SUBCOMMITTEES.—The Commission or Task Force shall have two subcommittees as follows:
    - (A) A Subcommittee on the Backlog of Claims consisting of the eight members designated in accordance with paragraph (1).
    - (B) A Subcommittee on Appeals consisting of the seven members designated in accordance with paragraph (1).
  - (3) QUALIFICATIONS.—Each member appointed under paragraph (1) shall be appointed based on the experience of the member as a veteran or on the subject matter expertise or other relevant experience of the member.
  - (4) ADVISORS.—

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

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

(ii) seek advice from experts from nongovernmental organizations (including veterans service organizations and military organizations), the Internet technology industry, and the insurance industry.

(B) ADVICE.—Individuals described in clause (i) and (ii) of subparagraph

(A) shall provide advice to both subcommittees described in paragraph (2).

(5) CHAIRMAN.—The President shall designate a member of the Commission or Task Force who is appointed by the President and designated to serve upon the Subcommittee on the Backlog of Claims to serve as the chairman of the Commission or Task Force. The chairman may designate a member to serve as the chairman of the Subcommittee on the Backlog of Claims and a member to serve as the chairman of the Subcommittee on Appeals to chair such subcommittees as the designee of the chairman of the Commission or Task Force.

(6) PERIOD OF APPOINTMENT.—Members of the Commission or Task Force shall be appointed for the life of the Commission or Task Force. A vacancy shall not affect its powers.

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

(8) APPOINTMENT DEADLINE.—The appointment of members of the Commission or Task Force established in this section shall be made not later than 15 days after the date of the enactment of this Act.

(e) MEETINGS.—

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

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

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

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

(1) HEARINGS.—The Commission or Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission or Task Force considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission or Task Force may secure directly from any department or agency of the Federal Government such information as the Commission or Task Force considers necessary to carry out the provisions of this section. Upon request of the chairman, the head of such department or agency shall furnish such information to the Commission or Task Force.

(3) POSTAL SERVICES.—The Commission or Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

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

(g) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission or Task Force who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission or Task Force. All members of the Commission or Task Force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

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

(3) STAFF.—

(A) APPOINTMENT.—The chairman of the Commission or Task Force may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the Commission or Task Force to perform its duties. The appointment of an ex-

ecutive director shall be subject to the approval of the Commission or Task Force.

(B) COMPENSATION.—The chairman of the Commission or Task Force may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission or Task Force, the head of any department or agency of the Federal Government may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission or Task Force to assist it in carrying out its duties.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission or Task Force may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(h) TERMINATION OF COMMISSION OR TASK FORCE.—The Commission or Task Force shall terminate 60 days after the date on which the Commission or Task Force submits the final comprehensive report under subsection (c)(3).

(i) FUNDING.—

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

(2) AVAILABILITY.—Any sums made available to the Commission or Task Force shall remain available, without fiscal year limitation, until the termination of the Commission or Task Force.

(j) DEFINITIONS.—In this section:

(1) The term “appeals process” means the process to appeal the determination by the Secretary of a claim beginning with the notice of disagreement filed pursuant to section 7105 of title 38, United States Code, and ending with the review of a decision by the Supreme Court pursuant to section 7292(c) of such title.

(2) The term “Board” means the Board of Veterans’ Appeals.

(3) The term “strategic plan” means the Strategic Plan to Eliminate the Compensation Claims Backlog, published by the Secretary of Veterans Affairs on January 25, 2013.

**SEC. 102. SUPPLEMENTAL REPORTS TO THE STRATEGIC PLAN TO ELIMINATE THE COMPENSATION CLAIMS BACKLOG.**

Not later than 60 days after the date of the enactment of this Act, and every 120 days thereafter until Memorial Day (May 25), 2015, the Secretary of Veterans Affairs shall submit to Congress a supplemental report on the implementation by the Department of Veterans Affairs of the Strategic Plan to Eliminate the Compensation Claims Backlog. Each such report shall include—

(1) verification that during the period covered by the report, each claim was approved or denied by not later than 125 days after the date on which the claim is submitted with an accuracy rate of 98 percent, as specified in the Strategic Plan;

(2) a description of the specific measures, procedures, and metrics used to assess the implementation of the Strategic Plan for purposes of the supplemental report; and

(3) a detailed timeline for the implementation of each initiative contained in the Strategic Plan.

**SEC. 103. EXPEDITION OF TRANSFER OF CERTAIN RECORDS.**

(a) SSA RECORDS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the Commissioner of the Social Security Administration to ensure that the Commissioner transfers to the Secretary disability or medical records of the Commissioner that the Secretary will use to evaluate a claim by not later than 30 days after the Secretary requests such records.

(b) DOD RECORDS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the Secretary of Defense to ensure that the Secretary of Defense transfers to the Secretary of Veterans Affairs medical records of members or former members of the Armed

Forces that the Secretary will use to evaluate a claim by not later than 30 days after the Secretary requests such records.

(c) NATIONAL GUARD RECORDS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly—

(1) submit to Congress a plan to reduce to 30 days the amount of time needed to provide members of the National Guard and the Secretary of Veterans Affairs with the medical records of such members, including by partnering with appropriate officials of Federal or State departments or agencies; and

(2) implement such plan.

(d) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 104. CLAIMS PROCESSORS TRAINING.**

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall establish a training program to provide newly hired claims processors of the Department of Veterans Affairs with training for a period of not less than two years. In carrying out such program, the Secretary shall identify successful claims processors of the Department who can assist in the training of newly hired claims processors.

(b) ABILITY TO PROCESS CLAIMS.—The Secretary shall carry out the training program established under subsection (a) without increasing the amount of time in which claims are processed by the Department.

(c) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 105. REPORT BY COMPTROLLER GENERAL OF THE UNITED STATES.**

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the progress of the Secretary of Veterans Affairs in improving the timeliness of claims processing and eliminating the backlog of claims. The report shall include any recommendations of the Comptroller General with respect to improving the ability of the Secretary to make such progress.

**SEC. 106. PRIORITY FOR PROCESSING CLAIMS OF THE DEPARTMENT OF VETERANS AFFAIRS.**

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

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

“(a) PRIORITY.—In processing claims for compensation under this chapter, the Secretary shall provide the following claimants with priority over other claimants:

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

“(2) Veterans who are terminally ill.

“(3) Veterans with life-threatening illnesses.

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

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

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

“(7) Veterans whose claims are being reviewed again in relation to a previously denied claim relating to military sexual trauma.

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

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

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5109B the following new item:

“5109C. Priority for processing claims.”.

**SEC. 107. PUBLIC AVAILABILITY OF CERTAIN INFORMATION ABOUT PENDING AND COMPLETED CLAIMS FOR COMPENSATION UNDER THE LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Subchapter I of chapter 51 of title 38, United States Code, is amended by adding after section 5109C, as added by section 106, the following new section:

**“§ 5109D. Information about pending and completed claims**

“(a) AVAILABILITY OF INFORMATION.—The Secretary shall maintain on the Internet website of the Department publicly accessible information about pending and com-

pleted claims for compensation under chapter 11 of this title. Such information shall include each of the following:

- “(1) For each regional office and for the Department as a whole—
  - “(A) the average number of days between the date of the submittal of a claim and the date of the decision with respect to the claim for each of the preceding three-month and one-year period;
  - “(B) the average number of days such a claim is pending during the preceding three-month and one-year periods;
  - “(C) the quality and accuracy rating of the claims adjudication process during the preceding three-month and one-year periods;
  - “(D) the number of claims pending;
  - “(E) the number of pending claims that have been pending for more than 125 days; and
  - “(F) the number of claims completed during—
    - “(i) the current month, to date;
    - “(ii) the month preceding the current month;
    - “(iii) the current calendar year, to date; and
    - “(iv) the calendar year preceding the current calendar year.

“(2) For each medical condition for which a claim for compensation is submitted, for each regional office and for the Department as a whole—

- “(A) the average number of days between the date of the submittal of a claim relating to such medical condition and the date of the decision with respect to the claim for each of the preceding three-month and one-year period;
- “(B) the average number of days such a claim is pending during the preceding three-month and one-year periods;
- “(C) the quality and accuracy rating of the claims adjudication process as applied to claims relating to such medical condition during the preceding three-month and one-year periods;
- “(D) the number of pending claims relating to such condition;
- “(E) the number of such pending claims that have been pending for more than 125 days; and
- “(F) the number of claims relating to such medical condition completed during—
  - “(i) the current month, to date;
  - “(ii) the month preceding current month;
  - “(iii) the current calendar year, to date; and
  - “(iv) the calendar year preceding the current calendar year.

“(b) UPDATES.—The Secretary shall update the information on the website under subsection (a) not less frequently than once every seven days.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 5109C, as added by section 106, the following new item:

“5109D. Information about pending and completed claims.”.

**SEC. 108. ANNUAL REPORT ON PROCESSING OF CLAIMS.**

(a) IN GENERAL.—Subchapter I of chapter 51 of title 38, United States Code, is amended by adding after section 5109D, as added by section 107, the following new section:

**“§ 5109E. Annual report on processing of claims**

“(a) ANNUAL REPORT.—The Secretary shall include in the annual report to Congress required under section 529 of this title information on the following:

- “(1) The automatic processing of claims for compensation.
- “(2) The performance of any regional office that fails to meet the administrative goals of the regional office with respect to timeliness and accuracy in processing claims for compensation.
- “(3) The timeliness of receiving information pursuant to a request by the Secretary to the head of another department or agency of the United States for information required by the Secretary in adjudicating a claim for compensation under chapter 11 of this title.

“(b) MATTERS INCLUDED.—In carrying out subsection (a) to include information in the report required under section 529 of this title, the Secretary shall include the following:

- “(1) With respect to the information required by subsection (a)(1)—
  - “(A) each medical condition for which claims relating to such condition were processed in an electronic automated fashion during the fiscal year covered by the report;

“(B) the feasibility of processing any additional medical conditions in an electronic automated fashion and any barriers to such processing, including any such barriers relating to the schedule for rating disabilities under section 1155 of this title;

“(C) the number of claims for compensation relating to each medical condition submitted during such fiscal year; and

“(D) for each medical condition, the percentage of claims denied and the percentage of claims approved during such fiscal year.

“(2) With respect to the information required by subsection (a)(2), in the case of any regional office that, for the fiscal year covered by the report, did not meet the administrative goal of having no claim pending for more than 125 days and achieving an accuracy rating of 98 percent—

“(A) a signed statement prepared by the individual serving as director of the regional office as of the date of the submittal of the report containing—

“(i) an explanation for why the regional office did not meet the goal;

“(ii) a description of the additional resources needed to enable the regional office to reach the goal; and

“(iii) a description of any additional actions planned for the subsequent fiscal year that are proposed to enable the regional office to meet the goal; and

“(B) a statement prepared by the Under Secretary for Benefits explaining how the failure of the regional office to meet the goal affected the performance evaluation of the director of the regional office.

“(3) With respect to the information required by subsection (a)(3)—

“(A) the number of requests described in such paragraph made during the fiscal year covered by the report; and

“(B) the average response time for such requests made during each month of such fiscal year, as determined based on the period beginning on the date on which the Secretary made the request and ending on the date on which the Secretary determines that the request is completed.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 5109D, as added by section 107, the following new item:

“5109E. Annual report on processing of claims.”.

(c) EFFECTIVE DATE.—Section 5109E of title 38, United States Code, as added by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 109. DEPARTMENT OF VETERANS AFFAIRS NOTICE OF AVERAGE TIMES FOR PROCESSING CLAIMS AND PERCENTAGE OF CLAIMS APPROVED.**

(a) PUBLIC NOTICE.—The Secretary of Veterans Affairs shall post the information described in subsection (c)—

(1) in a conspicuous place in each regional office and claims intake facilities of the Department of Veterans Affairs; and

(2) on the Internet website of the Department.

(b) NOTICE TO APPLICANTS.—

(1) IN GENERAL.—The Secretary shall provide to each person who submits a claim for benefits under the laws administered by the Secretary before the person submits such claim—

(A) notice of the information described in subsection (c); and

(B) notice that, during the period ending on August 6, 2015, the person is eligible to receive up to an extra year of benefits payments if the person files an original claim that is fully developed.

(2) ACKNOWLEDGMENT OF RECEIPT OF NOTICE.—Each person who submits a claim for benefits under the laws administered by the Secretary shall include in such application a signed form acknowledging that the person received the information described in subsection (c).

(c) INFORMATION DESCRIBED.—

(1) IN GENERAL.—The information described in this subsection is the following:

(A) The average processing time of the claims described in paragraph (2) and the percentage of such submitted claims for which benefits are awarded.

(B) The percentage of each of the following types of submitted claims for benefits under the laws administered by the Secretary of Veterans Affairs for which benefits are awarded:

(i) Claims filed by veterans who authorized a veterans service organization to act on the veterans’ behalf under a durable power of attorney.

- (ii) Claims filed by veterans who authorized a person other than a veterans service organization to act on the veterans' behalf under a durable power of attorney.
- (iii) Claims filed by veterans who did not authorize a person to act on the veterans' behalf under a durable power of attorney.
- (2) CLAIMS DESCRIBED.—The claims described in this paragraph are each of the following types of claims for benefits under the laws administered by the Secretary of Veterans Affairs:
  - (A) A fully developed claim that is submitted in standard electronic form.
  - (B) A fully developed claim that is submitted in standard paper form.
  - (C) A claim that is not fully developed that is submitted in standard electronic form.
  - (D) A claim that is not fully developed that is submitted in standard paper form.
  - (E) A claim that is not fully developed that is submitted in nonstandard paper form.
- (3) UPDATE OF INFORMATION.—The information described in this subsection shall be updated not less frequently than once each fiscal quarter.
- (d) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 110. CLAIM DEFINED.**

Except as otherwise provided, in this title, the term “claim” means a claim for disability compensation under the laws administered by the Secretary of Veterans Affairs.

## TITLE II—COMPENSATION AND PENSIONS

**SEC. 201. IMPROVEMENTS TO AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS.**

(a) EXTENSION OF TEMPORARY AUTHORITY.—Subsection (c) of section 704 of the Veterans Benefits Act of 2003 (38 U.S.C. 5101 note) is amended by striking “December 31, 2013” and inserting “December 31, 2016”.

(b) LICENSURE OF CONTRACT PHYSICIANS.—

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

(A) by redesignating subsection (d) as subsection (e); and

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

“(d) LICENSURE OF CONTRACT PHYSICIANS.—

“(1) IN GENERAL.—Notwithstanding any law regarding the licensure of physicians, a physician described in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (b) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

“(2) PHYSICIAN DESCRIBED.—A physician described in this paragraph is a physician who—

“(A) has a current license to practice the health care profession of the physician; and

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

(2) PILOT PROGRAM.—Section 504 of the Veterans' Benefits Improvement Act of 1996 (38 U.S.C. 5101 note) is amended—

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

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

“(c) LICENSURE OF CONTRACT PHYSICIANS.—

“(1) IN GENERAL.—Notwithstanding any law regarding the licensure of physicians, a physician described in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (a) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

“(2) PHYSICIAN DESCRIBED.—A physician described in this paragraph is a physician who—

“(A) has a current license to practice the health care profession of the physician; and

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

(c) EXPANSION OF PILOT PROGRAM.—Subsection (b) of such section 504 is amended to read as follows:

“(b) LOCATIONS.—

“(1) NUMBER.—The Secretary may carry out the pilot program under this section through not more than 15 regional offices of the Department of Veterans Affairs.

“(2) SELECTION.—The Secretary shall select the regional offices under paragraph (1) by analyzing appropriate data to determine the regional offices that require support. Such appropriate data shall include—

“(A) the number of backlogged claims;

“(B) the total pending case workload;

“(C) the length of time cases have been pending;

“(D) the accuracy of completed cases;

“(E) the overall timeliness of completed cases;

“(F) the availability and workload of the examination units and physicians of the medical centers in the regional office; and

“(G) any other data the Secretary determines appropriate.

“(3) ANNUAL ANALYSIS.—The Secretary shall carry out the data analysis of the regional offices under paragraph (2) during each year in which the program under this section is carried out to determine the regional offices selected under paragraph (1) for such year.”.

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 202. CONSIDERATION BY SECRETARY OF VETERANS AFFAIRS OF RESOURCES DISPOSED OF FOR LESS THAN FAIR MARKET VALUE BY INDIVIDUALS APPLYING FOR PENSION.**

(a) VETERANS.—Section 1522 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(1)” before “The Secretary”; and

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

“(2)(A) If a veteran otherwise eligible for payment of pension under section 1513 or 1521 of this title or the spouse of such veteran disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such veteran under section 1513 or 1521 of this title, as the case may be, for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

“(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran’s spouse, that the Secretary considers that under all the circumstances, if the veteran or spouse had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the veteran’s maintenance.

“(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran’s spouse, that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the veteran’s maintenance.

“(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

“(ii) The date described in this clause is the date on which the veteran applies for pension under section 1513 or 1521 of this title or, if later, the date on which the veteran (or the spouse of the veteran) disposes of covered resources for less than fair market value.

“(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(E) The number of months calculated under this subparagraph shall be equal to—

“(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the veteran (or the spouse of the veteran) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the veteran’s maintenance; divided by

“(ii) the maximum amount of monthly pension that is payable to a veteran under section 1513 or 1521 of this title, including the maximum amount of in-

creased pension payable under such sections on account of family members, but not including any amount of pension payable under such sections because a veteran is in need of regular aid and attendance or is permanently housebound, rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.”;

(2) in subsection (b)—

(A) by inserting “(1)” before “The Secretary”; and

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

“(2)(A) If a veteran otherwise eligible for payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child, the spouse of the veteran, or the child disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue payment of such increased pension for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

“(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child that the Secretary considers that under all the circumstances, if the veteran, the spouse of the veteran, or the child had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child’s maintenance.

“(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the child that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child’s maintenance.

“(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

“(ii) The date described in this clause is the date on which the veteran applies for payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child or, if later, the date on which the veteran, the spouse of the veteran, or the child disposes of covered resources for less than fair market value.

“(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(E) The number of months calculated under this subparagraph shall be equal to—

“(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the veteran, the spouse of the veteran, or the child on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child’s maintenance; divided by

“(ii) the maximum amount of increased monthly pension that is payable to a veteran under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child,

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.”; and

(3) by adding at the end the following new subsections:

“(c)(1) The Secretary shall not deny or discontinue payment of pension under section 1513 or 1521 of this title or payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child by reason of the application of subsection (a)(2) or (b)(2) of this section to the disposal of resources by an individual to the extent that—

“(A) a satisfactory showing is made to the Secretary (in accordance with regulations promulgated by the Secretary) that all resources disposed of for less than fair market value have been returned to the individual who disposed of the resources; or

“(B) the Secretary determines, under procedures established by the Secretary, that the denial or discontinuance of payment would work an undue hardship as determined on the basis of criteria established by the Secretary.

“(2) At the time a veteran applies for pension under section 1513 or 1521 of this title or increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child, and at such other times as the Secretary considers appropriate, the Secretary shall—

“(A) inform such veteran of the provisions of subsections (a)(2) and (b)(2) providing for a period of ineligibility for payment of pension under such sections

for individuals who make certain dispositions of resources for less than fair market value; and

“(B) obtain from such veteran information which may be used in determining whether or not a period of ineligibility for such payments would be required by reason of such subsections.

“(d) Subsections (a)(2) and (b)(2) shall not apply with respect to the disposal of resources or the transfer of an asset if such disposal or transfer is to a trust described in section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) that is established for the benefit of a child of the veteran.”.

(b) SURVIVING SPOUSES AND CHILDREN.—Section 1543 of such title is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) If a surviving spouse otherwise eligible for payment of pension under section 1541 of this title disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such surviving spouse under section 1541 of this title for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

“(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the surviving spouse that the Secretary considers that under all the circumstances, if the surviving spouse had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the surviving spouse’s maintenance.

“(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the surviving spouse that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the surviving spouse’s maintenance.

“(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

“(ii) The date described in this clause is the date on which the surviving spouse applies for pension under section 1541 of this title or, if later, the date on which the surviving spouse disposes of covered resources for less than fair market value.

“(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(E) The number of months calculated under this subparagraph shall be equal to—

“(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the surviving spouse on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the surviving spouse’s maintenance; divided by

“(ii) the maximum amount of monthly pension that is payable to a surviving spouse under section 1541 of this title, including the maximum amount of increased pension payable under such section on account of a child, but not including any amount of pension payable under such section because a surviving spouse is in need of regular aid and attendance or is permanently housebound, rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

“(F) In the case of a transfer by the surviving spouse during the veteran’s lifetime that resulted in a period of ineligibility for the veteran under section 1522 of this title, the Secretary shall apply to the surviving spouse any remaining ineligibility for that period.”; and

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

“(4)(A) If a surviving spouse otherwise eligible for payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child or the child disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue payment of such increased pension for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

“(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child that the Secretary considers that under all the circumstances, if the surviving spouse or the child had not disposed

of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child's maintenance.

“(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the child that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child's maintenance.

“(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

“(ii) The date described in this clause is the date on which the surviving spouse applies for payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child or, if later, the date on which the surviving spouse (or the child) disposes of covered resources for less than fair market value.

“(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(E) The number of months calculated under this clause shall be equal to—

“(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by surviving spouse (or the child) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child's maintenance; divided by

“(ii) the maximum amount of increased monthly pension that is payable to a surviving spouse under subsection (c), (d), or (e) of section 1541 of this title on account of a child,

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.”;

(2) in subsection (b)—

(A) by inserting “(1)” before “The Secretary”; and

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

“(2)(A) If a child otherwise eligible for payment of pension under section 1542 of this title or any person with whom such child is residing who is legally responsible for such child's support disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such child under section 1542 of this title for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

“(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child or the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support that the Secretary considers that under all the circumstances, if the child or person had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child's maintenance.

“(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate described in clause (i) that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child's maintenance.

“(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

“(ii) The date described in this clause is the date on which the child applies for pension under section 1542 of this title or, if later, the date on which the child (or person described in subparagraph (B)) disposes of covered resources for less than fair market value.

“(D) The date described in this clause is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(E) The number of months calculated under this clause shall be equal to—

“(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the child (or person described in subparagraph (B)) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child's maintenance; divided by

“(ii) the maximum amount of monthly pension that is payable to a child under section 1542 of this title,

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.”; and

(3) by adding at the end the following new subsections:

“(c)(1) The Secretary shall not deny or discontinue payment of pension under section 1541 or 1542 of this title or payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child by reason of the application of subsection (a)(2), (a)(4), or (b)(2) of this section to the disposal of resources by an individual to the extent that—

“(A) a satisfactory showing is made to the Secretary (in accordance with regulations promulgated by the Secretary) that all resources disposed of for less than fair market value have been returned to the individual who disposed of the resources; or

“(B) the Secretary determines, under procedures established by the Secretary, that the denial or discontinuance of payment would work an undue hardship as determined on the basis of criteria established by the Secretary.

“(2) At the time a surviving spouse or child applies for pension under section 1541 or 1542 of this title or increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child, and at such other times as the Secretary considers appropriate, the Secretary shall—

“(A) inform such surviving spouse or child of the provisions of subsections (a)(2), (a)(4), and (b)(2), as applicable, providing for a period of ineligibility for payment of pension or increased pension under such sections for individuals who make certain dispositions of resources for less than fair market value; and

“(B) obtain from such surviving spouse or child information which may be used in determining whether or not a period of ineligibility for such payments would be required by reason of such subsections.

“(d) Paragraphs (2) and (4) of subsection (a) and subsection (b)(2) shall not apply with respect to the disposal of resources or the transfer of an asset if such disposal or transfer is to a trust described in section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) that is established for the benefit of a child of the veteran or surviving spouse.”

(c) EFFECTIVE DATE.—Subsections (a)(2), (b)(2), and (c) of section 1522 of title 38, United States Code, as added by subsection (a), and subsections (a)(2), (a)(4), (b)(2), and (c) of section 1543 of such title, as added by subsection (b), shall take effect on the date that is one year after the date of the enactment of this Act and shall apply with respect to payments of pension and increased pension applied for after such date and to payments of pension and increased pension for which eligibility is redetermined after such date, except that no reduction in pension shall be made under such subsections because of any disposal of covered resources made before such date.

(d) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act and not less frequently than once each year thereafter through 2018, the Secretary of Veterans Affairs shall submit to the appropriate committees of Congress a report on the administration of subsections (a)(2), (b)(2), and (c) of section 1522 of title 38, United States Code, as added by subsection (a), and subsections (a)(2), (a)(4), (b)(2), and (c) of section 1543 of such title, as added by subsection (b), during the most recent 12-month period.

(2) ELEMENTS.—Each report submitted under paragraph (1) shall include the following, for the period covered by the report:

(A) The number of individuals who applied for pension under chapter 15 of such title.

(B) The number of individuals who received pension under such chapter.

(C) The number of individuals with respect to whom the Secretary denied or discontinued payment of pension under the subsections referred to in paragraph (1).

(D) A description of any trends identified by the Secretary regarding pension payments that have occurred as a result of the amendments made by this section.

(E) Such other information as the Secretary considers appropriate.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Veterans’ Affairs and the Select Committee on Aging of the Senate; and

(B) the Committee on Veterans’ Affairs of the House of Representatives.

**SEC. 203. BIFURCATED PAYMENTS OF COMPENSATION BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.**

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

**“§ 5127. Bifurcated payments of compensation benefits**

“(a) IN GENERAL.—During the eight-year period beginning on the date of the enactment of this section, in the case of a claim described in subsection (b), prior to adjudicating the claim, the Secretary shall make payments of monetary benefits to the claimant based on any disability for which the Secretary has made a decision. Upon the adjudication of the claim, the Secretary shall pay to the claimant any monetary benefits awarded to the claimant for the period of payment under section 5111 of this title less the amount of such benefits paid to the claimant under this section.

“(b) CLAIM DESCRIBED.—A claim described in this subsection is a claim for disability compensation under chapter 11 of this title—

“(1) the adjudication of which requires the Secretary to make decisions with respect to two or more disabilities; and

“(2) for which, before completing the adjudication of the claim, the Secretary makes a decision with respect to a disability that would result in the payment of monetary benefits to the claimant upon the adjudication of the claim.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end of the items relating to such subchapter the following new item:

“5127. Bifurcated payments of compensation benefits.”.

(c) EFFECTIVE DATE.—Section 5127 of title 38, United State Code, as added by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 204. PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.**

Section 5503(d)(7) of title 38, United States Code, is amended by striking “November 30, 2016” and inserting “September 30, 2018”.

**TITLE III—OTHER MATTERS****SEC. 301. REVIEW OF OPERATION OF CERTAIN SHIPS DURING THE VIETNAM ERA.**

(a) REVIEW REQUIRED.—By not later than one year after the date of the enactment of this Act, the Secretary of Defense shall review the logs of each ship under the authority of the Secretary of the Navy that is known to have operated in the waters near Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, to determine—

(1) whether each such ship operated in the territorial waters of the Republic of Vietnam during such period; and

(2) for each such ship that so operated—

(A) the date or dates when the ship so operated; and

(B) the distance from the shore of the location where the ship operated that was the closest proximity to shore.

(b) PROVISION OF INFORMATION TO THE SECRETARY OF VETERANS AFFAIRS.—Upon a determination that any such ship so operated, the Secretary of Defense shall provide such determination, together with the information described in subsection (a)(2) about the ship, to the Secretary of Veterans Affairs.

(c) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary of Veterans Affairs shall make publicly available all unclassified information provided to the Secretary under subsection (b).

**SEC. 302. METHODS FOR VALIDATING CERTAIN SERVICE CONSIDERED TO BE ACTIVE SERVICE BY THE SECRETARY OF VETERANS AFFAIRS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Merchant Marine Act, 1936 established the United States Maritime Commission, and stated as a matter of policy that the United States should have a merchant marine that is “capable of serving as a naval and military auxiliary in time of war or national emergency”.

(2) The Social Security Act Amendments of 1939 (Public Law 76–379) expanded the definition of employment to include service “on or in connection with an American vessel under contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel”.

(3) The Joint Resolution to repeal sections 2, 3, and 6 of the Neutrality Act of 1939, and for other purposes (Public Law 77–294; 55 Stat. 764) repealed section 6 of the Neutrality Act of 1939 (related to the arming of United States ves-

sels) and authorized the President during the national emergency to arm or permit to arm any United States vessel.

(4) On February 7, 1942, President Franklin D. Roosevelt, through Executive Order Number 9054, established the War Shipping Administration that was charged with building or purchasing, and operating the civilian shipping vessels needed for the war effort.

(5) During World War II, United States merchant mariners transported goods and materials through “contested waters” to the various combat theaters.

(6) At the conclusion of World War II, United States merchant mariners were responsible for transporting several million members of the United States Armed Forces back to the United States.

(7) The GI Bill Improvement Act of 1977 (Public Law 95–202) provided that the Secretary of Defense could determine that service for the Armed Forces by organized groups of civilians, or contractors, be considered “active service” for benefits administered by the Veterans Administration.

(8) Department of Defense Directive 1000.20 directed that the determination be made by the Secretary of the Air Force, and established the Civilian/Military Service Review Board and Advisory Panel.

(9) In 1987, three merchant mariners along with the AFL–CIO sued Edward C. Aldridge, Secretary of the Air Force, challenging the denial of their application for veterans status. In *Schumacher v. Aldridge* (665 F. Supp. 41 (D.D.C. 1987)), the Court determined that Secretary Aldridge had failed to “articulate clear and intelligible criteria for the administration” of the application approval process.

(10) During World War II, women were repeatedly denied issuance of official documentation affirming their merchant marine seaman status by the War Shipping Administration.

(11) Coast Guard Information Sheet #77 (April 1992) identifies the following acceptable forms of documentation for eligibility meeting the requirements set forth in the GI Bill Improvement Act of 1977 (Public Law 95–202) and Veterans Programs Enhancement Act of 1998 (Public Law 105–368):

(A) Certificate of shipping and discharge forms.

(B) Continuous discharge books (ship’s deck or engine logbooks).

(C) Company letters showing vessel names and dates of voyages.

(12) Coast Guard Commandant Order of March 20, 1944, relieved masters of tugs, towboats, and seagoing barges of the responsibility of submitting reports of seamen shipped or discharged on forms, meaning certificates of shipping and discharge forms are not available to all eligible individuals seeking to document their eligibility.

(13) Coast Guard Information Sheet #77 (April 1992) states that “deck logs were traditionally considered to be the property of the owners of the ships. After World War II, however, the deck and engine logbooks of vessels operated by the War Shipping Administration were turned over to that agency by the ship owners, and were destroyed during the 1970s”, meaning that continuous discharge books are not available to all eligible individuals seeking to document their eligibility.

(14) Coast Guard Information Sheet #77 (April, 1992) states “some World War II period log books do not name ports visited during the voyage due to wartime security restrictions”, meaning that company letters showing vessel names and dates of voyages are not available to all eligible individuals seeking to document their eligibility.

(b) METHODS FOR VALIDATING CERTAIN SERVICE CONSIDERED TO BE ACTIVE SERVICE BY THE SECRETARY OF VETERANS AFFAIRS.—

(1) IN GENERAL.—For the purposes of verifying that an individual performed service under honorable conditions that satisfies the requirements of a coastwise merchant seaman who is recognized pursuant to section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note) as having performed active duty service for the purposes described in paragraph (3)(A), the Secretary of Homeland Security shall accept the following:

(A) In the case of an individual who served on a coastwise merchant vessel seeking such recognition for whom no applicable Coast Guard shipping or discharge form, ship logbook, merchant mariner’s document or Z-card, or other official employment record is available, the Secretary shall provide such recognition on the basis of applicable Social Security Administration records submitted for or by the individual, together with validated testimony given by the individual or the primary next of kin of the individual that the individual performed such service during the period beginning on December 7, 1941, and ending on December 31, 1946.

(B) In the case of an individual who served on a coastwise merchant vessel seeking such recognition for whom the applicable Coast Guard shipping or discharge form, ship logbook, merchant mariner's document or Z-card, or other official employment record has been destroyed or otherwise become unavailable by reason of any action committed by a person responsible for the control and maintenance of such form, logbook, or record, the Secretary shall accept other official documentation demonstrating that the individual performed such service during period beginning on December 7, 1941, and ending on December 31, 1946.

(C) For the purpose of determining whether to recognize service allegedly performed during the period beginning on December 7, 1941, and ending on December 31, 1946, the Secretary shall recognize masters of seagoing vessels or other officers in command of similarly organized groups as agents of the United States who were authorized to document any individual for purposes of hiring the individual to perform service in the merchant marine or discharging an individual from such service.

(2) TREATMENT OF OTHER DOCUMENTATION.—Other documentation accepted by the Secretary of Homeland Security pursuant to paragraph (1)(B) shall satisfy all requirements for eligibility of service during the period beginning on December 7, 1941, and ending on December 31, 1946.

(3) BENEFITS ALLOWED.—

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

(B) MEDALS, RIBBONS, AND DECORATIONS.—An individual whose service is recognized as active duty pursuant to paragraph (1) may be awarded an appropriate medal, ribbon, or other military decoration based on such service.

(C) STATUS OF VETERAN.—An individual whose service is recognized as active duty pursuant to paragraph (1) shall be honored as a veteran but shall not be entitled by reason of such recognized service to any benefit that is not described in this subsection.

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

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

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

#### SEC. 303. DESIGNATION OF AMERICAN WORLD WAR II CITIES.

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

(b) CRITERIA FOR DESIGNATION.—After the designation made under subsection (c), the Secretary, in consultation with the Secretary of Defense, shall make each designation under subsection (a) based on the following criteria:

(1) Contributions by a city to the war effort during World War II, including those related to defense manufacturing, bond drives, service in the Armed Forces, and the presence of military facilities within the city.

(2) Efforts by a city to preserve the history of the city's contributions during World War II, including through the establishment of preservation organizations or museums, restoration of World War II facilities, and recognition of World War II veterans.

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

#### SEC. 304. OBSERVANCE OF VETERANS DAY.

(a) TWO MINUTES OF SILENCE.—Chapter 1 of title 36, United States Code, is amended by adding at the end the following new section:

##### “§ 145. Veterans Day

“The President shall issue each year a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day in honor of the service and sacrifice of veterans throughout the history of the Nation, beginning at—

- “(1) 3:11 p.m. Atlantic standard time;
- “(2) 2:11 p.m. eastern standard time;
- “(3) 1:11 p.m. central standard time;
- “(4) 12:11 p.m. mountain standard time;
- “(5) 11:11 a.m. Pacific standard time;
- “(6) 10:11 a.m. Alaska standard time; and
- “(7) 9:11 a.m. Hawaii-Aleutian standard time.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 36, United States Code, is amended by adding at the end the following new item:

“145. Veterans Day.”.

Amend the title so as to read:

A bill to improve the processing of disability claims by the Department of Veterans Affairs, and for other purposes.

#### PURPOSE AND SUMMARY

H.R. 2189 was introduced on May 23, 2013, by Representative Jeff Miller of Florida. H.R. 2189, as amended, incorporates provisions from H.R. 2138, as amended, introduced by Representative Kevin McCarthy of California, H.R. 2382, as amended, introduced by Representative Paul Cook of California, H.R. 1623, as amended, introduced by Representative Gloria Negrete McLeod of California, H.R. 1805, as amended, introduced by Representative Ann M. Kuster of New Hampshire, H.R. 1759, as amended, introduced by Representative Raul Ruiz of California, H.R. 1824, as amended, introduced by Representative Grace Meng of New York, H.R. 1809, as amended, introduced by Representative Beto O’Rourke of Texas, H.R. 2423, as amended, introduced by Representative Jon Runyan of New Jersey, H.R. 2341, as amended, introduced by Representative Thomas J. Rooney of Florida, H.R. 2086, as amended, introduced by Representative Dina Titus of Nevada, H.R. 1494, as amended, introduced by Representative Christopher P. Gibson of New York, H.R. 1288, introduced by Representative G. K. Butterfield of North Carolina, H.R. 864, introduced by Representative Mike McIntyre of North Carolina, H.R. 2185, introduced by Representative Stephen F. Lynch of Massachusetts. Together, these provisions would establish a commission or task force to provide a comprehensive evaluation and assessment of the backlog of disability claims of the Department of Veterans Affairs (VA) as well as appeals of claims, would require VA to regularly report on implementation of its Strategic Plan, would require departmental coordination to expedite the transfer of Social Security, Department of Defense, and National Guard records, would establish a statutory two-year training program for claims processors, would require the Comptroller General to submit to Congress a report on the progress of the Secretary of Veterans Affairs in implementing the Strategic Plan to Eliminate the Compensation Claims Backlog within one year of enactment, would require Secretary of Veterans Affairs to prioritize certain enumerated claims for disability benefits, would direct the Secretary of Veterans Affairs to make publicly available certain information about pending and completed claims for compensation and would also require VA to report data on individual medical-issue processing, would add multiple reporting requirements for the Secretary’s annual report to Congress, would direct the Secretary of Veterans Affairs to provide notice of average times for processing claims and percentage of claims approved, would extend the temporary authority of the Secretary of Veterans

Affairs to enter into contracts with private physicians to conduct medical disability examinations from 2013 through 2016, would expand scope of pilot project on contracts with private physicians to provide compensation and pension exam from ten regional offices to fifteen regional offices, would reduce licensing hurdles for licensed contracted physicians for purposes of veteran compensation and pension examinations, would require the Secretary of Veterans Affairs, when determining the eligibility of individuals for pension benefits, to consider the resources of individuals applying for pension that were disposed of within three years of application by the individuals for less than fair market value and make reports to Congress, would direct the Secretary to make bifurcated payments of disability compensation benefits prior to the adjudication of additional issues within the claim, would extend provision of law regarding pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities for two additional years, would direct the Secretary of Defense to review the operation of ships operated in the waters near Vietnam during the Vietnam Era, and would require notification to the Secretary of Veterans Affairs, and public, of the findings, would permit additional documentation to be considered for veterans' status of coastwise merchant seamen during World War II, would direct the Secretary of Veterans Affairs to designate at least one city in the United States annually as an "American World War II City," and would codify a two minute moment of silence on Veterans Day.

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Section 1—Table of contents*

Section 1 of H.R. 2189, as amended, contains a table of contents.

##### *Section 2—Scoring of budgetary effects*

Section 2 of H.R. 2189, as amended, contains budgetary information regarding compliance with the Statutory Pay-As-You-Go Act of 2010.

#### TITLE I

##### *Section 101—Evaluation of backlog of disability claims and appeals of claims of Department of Veterans Affairs*

Section 101 of H.R. 2189, as amended, would establish a commission or task force to provide a comprehensive evaluation and assessment of the backlog of VA disability claims, as well as the lesser noted backlog of appealed claims, an analysis of possible improvements to the Department of Veterans Affairs' (VA) disability claims process, and any related issues that the commission or task force considers relevant. This section would require interim and final reports to Congress within 180 days of commencement of work.

The VA disability compensation program provides monetary support to veterans with disabling conditions that were incurred or aggravated during military service. In fiscal year 2012, the program provided over \$48 billion in disability compensation benefits to nearly 3.5 million veterans. For years, the disability compensation claims process has been the subject of concern and attention by VA, Congress, and Veterans Service Organizations (VSO), due in large

part to long waits for decisions and the large number of claims pending a decision. Moreover, VA's backlog of claims, defined as claims awaiting a decision for over 125 days, had more than tripled since September 2009. Against this backdrop, hundreds of thousands of servicemembers are expected to become veterans in the coming years according to VA officials, with a significant number expected to apply for disability benefits.

VA has faced challenges in reducing the time it takes to decide veterans' claims, and continues to struggle with hundreds of thousands of backlogged veterans' and survivors' claims. In 2013, VA presented its Strategic Plan to Eliminate the Compensation Claims Backlog. While this Strategic Plan set ambitious goals for 2015, it did not adequately define clear initiatives, correlations between initiatives, or expectations for success of the initiatives. Recently, on December 21, 2012, the Government Accountability Office (GAO) issued a report<sup>1</sup> on VA's plan for backlog reduction, wherein it noted that VA's Strategic Plan was inadequate. GAO wrote that VA's ongoing efforts should be driven by a robust, comprehensive plan; however when reviewing the Strategic Plan of the Veterans Benefits Administration (VBA), GAO found that it fell short of established criteria for sound planning.

VA has installed sweeping technological changes in recent months, and has implemented various initiatives under its Strategic Plan. However, VA has also layered new initiative upon new initiative, including short-notice mandatory overtime, focused deadlines for claims dated in excess of two years and one year, and alteration of the VA tracking and reporting figures of backlogged claims in its Monday Morning Workload Report. While VA has targeted backlog elimination by 2015, VA lacks a comprehensive process and workload strategy for the future that takes into account the changing nature of disabilities in our nation, the evolution of VA's duty to assist in light of amended notices to veterans, partnerships with the VSO community, and newly structured processing of claims that VA delineates as fully developed upon submission. Within its review, GAO noted that although VBA is attempting to address processing challenges through various improvement initiatives, without a comprehensive plan to strategically manage resources and evaluate the effectiveness of these efforts, the agency risks spending limited resources on initiatives that may not speed up disability claims and appeals processes. This may, in turn, result in forcing veterans to continue to wait months and even years to receive compensation for injuries incurred during their service to the country.

Furthermore, numerous recent reports of the VA Office of Inspector General (VA OIG) demonstrate that VA regional offices across the nation continue to lack effective controls and accuracy in processing disability claims, fail to adequately interpret policy requirements, lack effective training, and further lack proper managerial oversight. While VA has set concrete goals for processing times, and reduction of backlogged veterans' disability compensation claims, it is evident that more must be done to ensure that VA implements a workload management strategy that will not only elimi-

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<sup>1</sup>United States Government Accountability Office, Veterans' disability Benefits: Timely Processing Remains a Daunting Challenge, December, 2012, GAO-13-89.

nate the current backlog, but will also improve the system in a holistic manner, provide capacity for anticipated and unanticipated surges, ensure accurate processing of claims, and prevent future backlog occurrences.

The need for this legislation establishing a commission or task force has been highlighted before the Committee by independent subject matter expert academics, organizations who advocate on behalf of veterans, and by the Court of Appeals for Veterans Claims, most recently at a Subcommittee of Disability Assistance and Memorial Affairs' hearing on June 18, 2013, entitled, "Why Are Veterans Waiting Years on Appeal?: A Review of the Post-Decision Process for Appealed Veterans' Disability Benefits Claims." An outside analysis is necessary to clearly identify, first, why the backlog exists, and second, how to prevent this situation from ever recurring, whether by needed amendment to law, regulation, policy, or process.

The commission or task force created by this section would augment and support VA's ongoing work, contribute added value to VA's efforts, report on its findings early and often, and increase transparency throughout the process. Additionally, while much focus is placed upon the backlog of veterans' disability benefit claims, a commensurate focus upon the backlog of veterans' appealed claims does not exist. With a current caseload of over 250,000 appeals and a projected workload of hundreds of thousands of appealed claims in the coming years, the appellate system must also be considered with thoughtful analysis, evaluation, and recommendations for improvement.

*Section 102—Supplemental reports to the Strategic Plan to Eliminate the Compensation Claims Backlog*

Section 102 of H.R. 2189, as amended, would direct the Secretary of Veterans Affairs to provide a supplemental report to the Strategic Plan to Eliminate the Compensation Claims Backlog within 60 days of enactment, and every 120 days thereafter until May 25, 2015.

While VA's Strategic Plan to Eliminate the Compensation Claims Backlog sets forth dozens of initiatives targeted at eliminating the backlog, VA has failed to forecast the effects of each initiative. The Committee is significantly concerned that VA's Strategic Plan lacks specific details on how its metrics were derived, lacks data on which those metrics were based, and lacks sufficient information on how the plan would be implemented. Furthermore, insufficient transparency as VA works toward the 2015 goal complicates Congress' ability to hold VA accountable for meeting its goals. Thus, this legislation is necessary in order to ascertain the efficacy of the various new approaches undertaken by VA, allow for transparency of process, and enable accountability and further development of VA's improved service to veterans.

*Section 103—Expedition of transfer of certain records*

Section 103 of H.R. 2189, as amended, would require the Secretary of Veterans Affairs enter into agreements with the Secretary of Defense and the Commissioner of the Social Security Administration to ensure that the relevant federal records of members or former members of the Armed Forces, including persons who

served within the National Guard, are transferred to the Secretary of Veterans Affairs for use in evaluating claims by not later than 30 days after the Secretary of Veterans Affairs requests such records.

The enactment of this provision would reduce the delay that VA experiences when waiting for records from other federal agencies. VA officials have repeatedly indicated that the longest delays in processing compensation claims result from incomplete medical, service, and financial records that are needed to support the claim. While all delays in records receipt are problematic, it is unacceptable to have such delays for records in the custody of federal or state governmental agencies. Accordingly, this legislation is necessary to require that the federal departments that possess relevant records treat VA requests with proper expediency, and coordinate as needed with state actors.

*Section 104—Claims processors training*

Section 104 of H.R. 2189, as amended, would direct the Secretary of Veterans Affairs to establish a training program to provide newly hired claims processors of the Department of Veterans Affairs with training for a period of not less than two years. In carrying out such program, the Secretary would be required to identify successful claims processors of the Department who can assist in the training of newly hired claims processors.

Within VA's transformation process, focus has been placed on improving employee training programs in order to provide high-quality, timely, and relevant training for both new and experienced personnel. To that end, VA redesigned and deployed centralized programs and new tools that standardize training for the disability compensation and pension benefit programs across its 56 regional offices. VA has implemented eight-week Challenge Training for new employees, has deployed intensive multi-week Station Enhancement Training to regional offices that have reported consistently low performance and poor results, and has developed a National Training Curriculum. However, VA has also indicated that, on average, it takes two to three years for an employee to master the skills necessary within the Regional Offices. While VA has implemented new training programs, VSOs have long reported that VA's training is not sufficient. Accordingly, this section will require VA to ensure that adequate focus and resources remain targeted to ongoing and improved education and training for employees.

*Section 105—Report by Comptroller General of the United States*

Section 105 of H.R. 2189, as amended, would require the Comptroller General to submit to Congress a report on the progress of the Secretary of Veterans Affairs in implementing the Strategic Plan to Eliminate the Compensation Claims Backlog within one year of enactment.

On December 21, 2012, the Government Accountability Office (GAO) issued a report<sup>2</sup> on VA's transformation efforts, which noted that VBA was taking steps to improve the timeliness of claims and appeals processing; however, prospects for improvement remained uncertain because timely processing remained a daunting chal-

<sup>2</sup>Supra, note 1.

lenge. GAO indicated that VBA was using contractors to handle some aspects of the claims process, and was also shifting some workload between regional offices. Also, VBA was modifying and streamlining certain claims and appeals processing procedures for veterans who opt to participate in these initiatives in exchange for an expedited decision. For example, veterans receive expedited processing when they submit a claim that is certified as having all required evidence. In addition, VBA has been trying to decrease the amount of time it takes to gather medical evidence. For example, VBA recently encouraged medical providers to use a standardized form when responding to VBA's request for information. However, results of this initiative have been mixed. VBA was also taking steps to streamline the claims process, including implementing initiatives to create standardized language for decision letters sent to veterans, specialized teams that process claims based on level of complexity, and a paperless claims system.

GAO noted that, according to VBA officials, these efforts will help VA process veterans' claims within 125 days by 2015. However, GAO raised concerns as to the extent to which VA is positioned to meet this ambitious goal. Specifically, VBA's Strategic Plan did not articulate performance measures for each initiative, including their intended impact on the claims backlog. Furthermore, VA has not yet reported on how these efforts have affected processing times, a condition which raises concern given the mixed results that have emerged to date. GAO made several recommendations on areas for improvement. Accordingly, this section is necessary to ensure that GAO remains apprised of VA's actions, and is able to provide a follow-up report so as to inform Congress on VA's progress in its implementation of the Strategic Plan.

*Section 106—Priority for processing claims of the Department of Veterans Affairs*

Section 106 of H.R. 2189, as amended, would require Secretary of Veterans Affairs to prioritize disability benefits claims submitted by veterans who have attained the age of 70, who are terminally ill, have life-threatening illnesses, are homeless, have received the Medal of Honor, were prisoners of war, were seriously or very seriously injured, and those whose claims are being reviewed again in relation to a previously denied claim relating to military sexual trauma, or for good cause shown at the discretion of the Secretary on a case by case basis.

Current VA's practice includes the prioritization of certain claims, including Medal of Honor recipients, homeless veterans, and veterans experiencing extreme financial hardships, terminal illness, among others. Thus, VA has identified certain classes of claimants, and determined that in some instances expedited treatment is appropriate. Most of the classes of claimants enumerated in section 106 of H.R. 2189, as amended, currently qualify for prioritization and expedited process under VA's policy. However, on June 28, 2013, at a Subcommittee legislative hearing on this proposal, VBA Director of Compensation Service, Thomas Murphy, testified that it is not guaranteed that the VA practice is uniformly applied across all regional offices. Accordingly, it is the intent of this section to create a statutory requirement in order to ensure uniform prioritization for these most urgent claimants. The Com-

mittee believes that codification of this requirement would ensure uniform application of the priority classes, while still giving discretion to the Secretary of Veterans Affairs to provide for the prioritization of additional claims on a case by case basis.

In addition, pursuant to this section, veterans whose claims are being reviewed again in relation to a previously denied claim relating to military sexual trauma (MST) would be prioritized. The Committee is aware that, for several years, VA has insufficiently processed veterans' claims relating to MST. At a Subcommittee legislative hearing, held April 16, 2013, VA Director of Pension and Fiduciary Service, David R. McLenachen, testified that Under Secretary Hickey has devoted efforts to improving VA's overall sensitivity to MST-related post traumatic stress disorder (PTSD) claims through implementation of regulations, training, and coordination within VBA and the Veterans Health Administration (VHA). Even so, VA has recognized that some veterans' MST-related claims were decided before these targeted efforts began.

To assist those veterans and provide them with the same evidentiary considerations as veterans who file claims today, VBA plans to advise veterans of the opportunity to request that VA review their previously denied PTSD claims based on MST. Those veterans who respond will receive reconsideration of their claims based on VA's heightened sensitivity to MST and a more complete awareness of evidence development. However, as it stands currently, these claims will go to the back of the line and wait for newer filed claims to be processed. As the veterans' MST claims were both pending and adjudicated after lengthy wait times in the first instance, without the benefits of newly implemented safeguards for increased accuracy, the Committee believes that these veterans should also receive urgent and expeditious review within the statutorily prioritized classes.

*Section 107—Public availability of certain information about pending and completed claims for compensation under the laws administered by the Secretary of Veterans Affairs*

Section 107 of H.R. 2189, as amended, would require VA to increase its capabilities to regularly track the processing of claims in greater detail, and with an emphasis on the medical issues within a claim. Currently, VA tracks claims, but not individual medical issues. While VA reports its statistics on claim completions, this statistic is an ineffective measure of productivity, as a claim may contain any number of medical issues; some claims have as few as one issue, while others may have 15 or 16 issues. While each claim does represent one veteran, from an operational perspective, the preferred knowledge would be to have an understanding of the effort required for completion of the claim. In terms of gaining understanding of VA's workload, the Committee believes that 100 claims completed, each containing two objective issues is entirely different than 100 claims completed, each containing 10 or 11 issues demonstrating complex medical conditions.

At a Committee hearing in March, 2013,<sup>3</sup> VBA Under Secretary for Benefits, Allison A. Hickey, testified that the average number

<sup>3</sup>Hearing, Committee on Veterans' Affairs, "Focusing on People: A Review of VA's Plans for Employee Training, Accountability, and Workload Management to Improve Disability Claims Processing," March 20, 2013.

of claimed issues for recently separated Servicemembers is currently in the 12 to 16 range. Accordingly, VA does not believe the current all-or-nothing measure of claim accuracy reflects the actual level of decision accuracy achieved.

The Under Secretary indicated that VA has proposed an issue-based accuracy approach, which identifies individual medical issues and affords VBA the opportunity to precisely target those medical issues where the most errors are made. Ideally, with issue-based accuracy detail, VBA will be able to dedicate targeted training and improve employees' level of medical issue accuracy.

Dovetailing with VBA's internal identification of issue-based accuracy metrics, this section would require VA to track the time spent evaluating each issue within a veteran's disability claim, as well as the performance of each regional office in handling disability claims at the medical issue level. It would also require VA to provide public information on respective lengths for processing time. This information would provide Congress, VA, and the public with greater understanding of the backlog, including specific information on medical issues that are experiencing the shortest, and longest, delays. While this level of detail was not available in the legacy paper system, VA has indicated that an issue-based level of clarity would be possible within the Veterans Benefits Management System (VBMS). The Committee's intent is to both ensure that VA prioritizes the building of these capabilities within VBMS system, and to ensure that this information is shared on a regular basis with stakeholders.

*Sec. 108. Annual report on processing of claims*

As noted by the Veterans Benefits Administration, Under Secretary for Benefits, Allison A. Hickey, at March hearing,<sup>4</sup> the average benefits claim for Iraq and Afghanistan veterans contains 12 to 16 separate conditions. The medical conditions vary in complexity and each issue is individually adjudicated by VA employees; however, the veteran only begins receiving benefits when the entire claim has been processed.

The Committee believes that VA's annual reporting requirements to Congress require amendment in order to quantify the efficacy of various initiatives and performance-improving endeavors of the department. For instance, VA's continued pursuit of increased automation in the adjudication process is, in part, aimed at streamlining the objective facets of adjudication in order to allow full time employees to concentrate their efforts upon more complex claims. This section would direct the VA to provide information on the automatic processing of claims.

Section 108 would also require VA to provide information within its annual report to Congress on the performance of any regional office that fails to meet the administrative goals of the regional office with respect to timeliness and accuracy in processing claims for compensation. The Committee believes that this reporting requirement would allow for greater transparency of backlog and claims' processing issues, and would improve regional office accountability by providing individual reporting requirements for any of VA's 56 regional offices that fail to meet the department's target goals. This

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<sup>4</sup>Id.

reporting requirement would also allow regional offices to explain the unique challenges faced, and would facilitate targeted resourcing and remediation of struggling offices.

Finally, this section would create a reporting requirement within VA's annual report to Congress on the timeliness of receiving information pursuant to a request by the Secretary to the head of another department or agency of the United States for information required by the Secretary in adjudicating a claim for compensation under chapter 11 of title 38, United States Code. At the March 20, 2013, Committee hearing,<sup>5</sup> VA indicated that veterans' claims are often delayed due to slow response from other agencies, who must provide records in order to permit claim adjudication. For instance, the Committee is aware that a large proportion of claims are waiting for information from DoD in order to progress in the claims' adjudication process. As of August 26, 2013, VA's national average days to complete a claim, as reported upon VA's Monday Morning Workload Report, was over 375 days. Many months of that period consist of a holding pattern, wherein VA waits for the Department of Defense, the Internal Revenue Service, the Social Security Administration to respond to requests for records. Under Secretary Hickey stated that VA has made agreements with the other federal entities to provide a cleaner and quicker transfer of needed records, and so as to provide necessary oversight of this collaboration, this section would require annual information on the progress of these records transfers.

*Sec. 109. Department of Veterans Affairs notice of average times for processing claims and percentage of claims approved*

VA adopted the fully developed claims (FDCs) program pursuant to section 221 of P.L. 110-389 (122 Stat. 4145), the Veterans Benefits Improvement Act of 2008. This program allows veterans to collect their necessary documents and records independently, and then submit those claims as "fully developed." The veterans' efforts in providing the necessary records and documentation up front reduces VA's required efforts to assist the veterans in records development, thereby reducing several delays in the claim adjudication process with regards to VA's statutory duty to notify and duty to assist, provided at section 5103 and 5103A of title 38, United States Code. Within VBA's briefing to Congressional staff for July 2013, entitled "Understanding the VA Claims Process," VA reported that claims submitted pursuant to the FDC program have benefited from wait time reductions of up to 62 percent.

VA seeks to expand the FDC program and encourage an increase in FDC submissions nationally. In order to gain insight on the benefits that may be attributed to this program, this section would require VA to report quarterly on certain information regarding VA's timeliness for adjudicating claims in different formats such as paper application or online utilizing the FDC program. This section is intended to provide information that would educate VA stakeholders and veterans of the available options, and the consequent timeliness that would be associated with various forms of claims submission including fully developed claims submitted in electronic form, fully developed claims submitted in paper form, undeveloped

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<sup>5</sup> Id.

claims submitted in paper form, undeveloped claims submitted in standard paper form, claims submitted in a non-standard form, as well as claims submitted with the assistance of veterans service organizations (VSO). By providing ready access to this information, the Committee believes that veterans will be more informed on the possible benefits for faster adjudication of certain forms of claims submission, which will consequently shift behavior by encouraging submissions by the most manageable formats and with an appropriate level of VSO assistance. Additionally, this section would require that veterans be notified of the statutory benefit that is provided to FDC submissions; pursuant to statute, FDCs are eligible for up to one extra year of benefits through August 6, 2015. This provision is also intended to encourage veterans to file FDCs, and is intended to result in time savings within the claims process.

*Sec. 110. Claim defined*

Section 110 of H.R. 2189, as amended, defines the term “claim,” for the purposes of Title I, as a claim for disability compensation under the laws administered by the Secretary of Veterans Affairs.

TITLE II—COMPENSATION AND PENSIONS

*Sec. 201. Improvements to authority for performance of medical disabilities examinations by contract physicians*

Section 201 of H.R. 2189, as amended, would extend from December 31, 2013, through December 31, 2016, VA’s authority under the Veterans Benefits Act of 2003 to provide for medical examinations by contract physicians in claims for VA disability benefits. VA specifically requested this extension in its FY 2014 budget submission, at that time stating of the proposal:

Contract Physicians Medical Disability Evaluations: This proposal seeks to amend Public Law 108–183 by amending Section 704(c) with a five year extension. This Public Law provides authority under which persons not employed by the VA carry out examinations with respect to medical disability or applicants for VA benefits.<sup>6</sup>

The need for this legislation was demonstrated at the legislative hearing held on June 28, 2012 of the Subcommittee on Disability Assistance and Memorial Affairs. In testimony before the Committee, Veteran Service Organizations (VSO) offered that the quality and timeliness of compensation exams conducted by contractors have proven to be on par, and sometimes better than, disability exams conducted by VA physicians who are generally more focused on treating veterans rather than evaluating disabilities under the VA Schedule for Rating Disabilities. Moreover, VSOs noted that with demand for VA medical care rising, it is important that VA’s treating physicians, especially specialists, remain focused on providing high quality care to their patients. In addition, the more technologically-advanced and user-friendly scheduling and Information Technology (IT) systems used by some contractors has contributed to higher customer satisfaction scores from veterans receiving contract exams. The Committee heard testimony that if the exist-

<sup>6</sup>U.S. Department of Veterans Affairs Fiscal Year 2014 Budget Submission, Vol. 3, pg. 2A–24.

ing contracting authority were to expire, an already overstressed system would be further taxed, potentially to the breaking point. With wait times for exams a potential delaying factor in an already overlong disability claims process, VSOs indicate that losing this contracting authority could be disastrous to VA's attempts to eradicate the backlog of disability claims. Accordingly, it is the Committee's belief that extension of this VA authority is merited.

Section 201 of H.R. 2189, as amended, would also address physician licensure issues for contract physicians, as it would permit physicians who possess a license to practice the health care profession of the physician to perform compensation and pension examinations under the authority of VA at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract. The Committee finds this provision to be a sensible accommodation in light of several factors, including the fact that VA physicians similarly licensed are permitted to provide VA medical care at VA locations nationwide, as well as the supply and demand realities of specialized physicians in various geographic locations, and the specialized nature of compensation and pension examinations for the purpose of the VA disability benefits program. The licensure extended for VA purposes within this section regard only the contract physician's ability to provide compensation and pension examinations for VA rating purposes.

Finally, Section 201 of H.R. 2189, as amended, would extend VA's authority under the Veterans' Benefits Improvement Act of 1996. This provision would allow VA to utilize contract physicians at five additional Regional Offices, thus permitting VA to increase from 10 Regional Office to 15 Regional Offices. Due to the echoed support of both VA and VSOs of the contract physician program, the Committee believes that enlarging the pilot program to 15 of VA's 56 Regional Offices is appropriate, in order to expedite medical examination and, ultimately, claims' decisions for veterans.

*Sec. 202. Consideration by Secretary of Veterans Affairs of resources disposed of for less than fair market value by individuals applying for pension*

Section 202 would protect veterans the unscrupulous actions of individuals who have designed methods to scam veterans of their benefits. This section would eliminate the loophole that allows predators to divert veterans' assets in order to improperly qualify them for a pension. By creating a three-year "look-back" period to determine eligibility for the VA pension program, this section is designed to ensure that bad actors are not taking advantage of the system, and ensure the benefits for those veterans that truly qualify for the program.

Representative Thomas J. Rooney of Florida provided a written statement for the record at the legislative hearing held by the Subcommittee on Disability Assistance and Memorial Affairs on June 28, 2013. Representative Rooney indicated that there is concern that financial advisors and firms seeking to prey on elderly and disabled veterans are misleading and taking advantage of these veterans. The firms and individuals promise to help veterans qualify for VA pension benefits if they divert their assets into trusts or

annuities. Currently the VA only considers net worth at the time a veteran applies for benefits, therefore the Department cannot determine if an applicant has recently diverted their assets in order to qualify. Consequently, the firms profit from the purchased trusts or annuities, which are often poor investments for seniors. As a result, victims have lost access to their savings in exchange for a small pension and the VA pension fund is further drained for veterans in need. In addition, these firms further profit by charging veterans exorbitant fees and selling them additional, costly services.

This practice is shameful and appalling, and the Committee believes that this section is necessary in order to remedy this predatory situation. The financial firms are not only scamming elderly veterans out of their life savings, but they are also undermining the VA pension program in the process.

*Sec. 203. Bifurcated payments of compensation benefits under laws administered by the Secretary of Veterans Affairs*

The Veterans Benefits Management System (VBMS) is a transformational effort aimed at a paperless environment for veterans claims processing and benefits delivery across VBA's business lines. VBMS was originally piloted at the Providence and Salt Lake City regional offices in 2012, and was expanded to all regional offices in June 2013. Upon full development, VBMS is intended to provide end-to-end electronic claims processing for each stage of the claims life cycle.

The Committee believes that VBMS has the potential to allow for improvements to VBA's production performance and accuracy. Additionally, by operating in an electronic environment, VBA will eventually be able to adjudicate individual medical conditions.

More than 85 percent of claims are only paid after the entire claim has been reviewed and processed. The average benefits claim for Iraq and Afghanistan veterans contains 12 to 16 separate claimed disabling conditions. Each medical condition is individually adjudicated, but the veteran only begins receiving benefits when the entire claim has been processed. This section would require VA to pay veterans benefits they are entitled to as each element of their claim is finalized, rather than when the entire package has been processed. Such a payment approach was difficult in a paper processing operation; however, the Committee believes that paying veterans by individual medical condition should be achievable with VA's ongoing technological updates. Such a bifurcated payment system would be beneficial to veterans within the electronic processing system.

*Sec. 204. Pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities*

Section 204 would extend through September 30, 2018, the expiration date for the reduction of VA pensions for certain beneficiaries with no dependents who are covered by Medicaid plans for services furnished by nursing facilities.

Under current law, a veteran with no dependents who is entitled to receive pension under section 1521 of title 38, United States Code, cannot be paid more than \$90 per month if the veteran is in a nursing facility where services are covered by a Medicaid plan.

The \$90 pension benefit may not be counted in determining eligibility for Medicaid or the patient's share of cost.

This section is necessary, as extending the current law would generate required cost savings to provide funding for alterations of veterans' benefits programs that would be provided within H.R. 2189, as amended. While generating cost savings, the impact upon veterans' receipt of benefits is minimized as the enumerated reduction of VA pensions provided for Medicaid recipients, within section 5503 of title 38, United States Code, are currently in effect.

#### TITLE III—OTHER MATTERS

##### *Sec. 301. Review of operation of certain ships during the Vietnam Era*

Under current law, so-called "Blue Water" Navy Veterans who did not set foot in Vietnam or serve aboard ships that operated on the inland waterways of Vietnam between January 9, 1962 and May 7, 1975 have the burden of proof to demonstrate exposure to Agent Orange and the connection to their illnesses. These claims are decided on a case-by-case basis.

VA maintains a list of U.S. Navy and Coast Guard ships that operated within the vicinity of Vietnam. Some offshore vessels docked to the shore of Vietnam, operated in Vietnam's close coastal waters and sent smaller vessels ashore. Section 301 of H.R. 2189, as amended, would direct the Secretary of Defense to do a comprehensive search to determine which ships are eligible for coverage under current law, reducing the wait time when new claims are filed, and taking the burden off of claimant veterans to prove the operational maneuvers of DoD ships in the Vietnam Era. The Secretary of Defense would be required to report the information to the Secretary of Veterans Affairs, who would provide publicly accessible information. This section would properly place the burden on the organization that enjoys both access and subject matter expertise, the DoD, and would result in more accurate and timely claims processing for Vietnam veterans as a consequence of this thorough review and reporting.

##### *Sec. 302. Methods for validating certain service considered to be active service by the Secretary of Veterans Affairs*

Section 302 of H.R. 2189, as amended, would expand the official documentation accepted by the Secretary of Homeland Security to grant veterans status with limited benefits to World War II Merchant Marine, Coastwise Merchant Seamen. In all, fewer than 10,000 World War II Merchant Mariners are still alive and because of their specialized mission and small numbers, it's likely that only several hundred Coastwise Merchant Seamen are still living. This section would provide for the awarding of any commendations, ribbons, or honors earned during their time of service, and provide burial benefits to these individuals.

The Merchant Marines were private citizens employed by freight shipping companies. In an effort to support the American war effort during World War II, these freight shipping companies and their employees became an auxiliary to the United States Navy. Their mission was to transport bulk war materials including food,

clothing, weapons, and even troops to all areas of conflict and coastal installations here at home.

The ranks of the Coastwise Merchant Seamen were not solely filled by men, but with women, children, and disabled individuals as well. Although Coastwise Merchant Seamen did not sail across the Atlantic or Pacific Oceans into areas of conflict, they still encountered the enemy while delivering cargo that kept the war effort moving forward. One coastwise tugboat operating just off the coast of Virginia was sunk by a German U-Boat tragically killing several members of the crew.

Congress has attempted to recognize the efforts of the Merchant Marine with legislation signed into law such as the GI Bill Improvement Act of 1977, the Merchant Mariners Act of 1988, and the Veterans Programs Enhancement Act of 1998. However, these laws have not incorporated the entirety of those who served in the Merchant Marine during World War II, and have placed onerous criteria on these individuals to prove their service.

Most documentation required to prove service no longer exists or can be difficult to find. Currently, a certificate of shipping and discharge forms, continuous deck or engine logbooks, and shipping company records that indicate the vessel names and dates of voyages are the only documents that are considered acceptable to determine an individual's service in the Merchant Marine. Additionally, deck or engine logbooks were turned over to the War Shipping Administration and were ordered destroyed because they were too "voluminous to maintain, costly to keep, and rarely used for research." Shipping company records that indicate the vessel names and dates of voyages likely did not exist because written communication relating to the movement of supplies and troops were forbidden by U.S. military commanders.

This section would expand the acceptable forms of documentation used to determine eligible service in the Merchant Marines, and would allow acceptance of Social Security Administration records, validated testimony by the applicant or closest living relative, and other official records that provide sufficient proof of service.

#### *Sec. 303. Designation of American World War II Cities*

Section 303 of H.R. 2189, as amended, would mandate that the Secretary of Veterans Affairs designate one city in the United States each year as an "American World War II City" based on a set of criteria that includes: contributions to the war effort, efforts to preserve the history of the city's contributions, and the presence of military facilities within the city. The Committee believes that American cities provided critical and distinguished contributions to the World War II effort and should be honored and celebrated. This section would set in place a procedure for other cities to receive this designation.

#### *Sec. 304. Observance of Veterans Day*

When Veterans Day, originally known as Armistice Day, was first observed in 1919, the concept for the observance was to suspend business for a two minute period beginning at 11 A.M. Today, observance of a moment of silence varies from community to community and business to business around the United States.

Section 304 of H.R. 2189, as amended, would amend title 36, United States Code, to encourage the nationwide observance of two minutes of silence each Veterans Day.

Specifically, this section would direct the President to issue an annual proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day, beginning at 2:11 P.M. eastern time, in honor of the service and sacrifice of veterans throughout the history of the nation.

This section would call for Americans across the nation to officially hold a uniform moment of silence for our nation's servicemen and women on Veterans Day. The Committee believes this section would refocus the American public upon the Day's true and original meaning.

#### HEARINGS

On June 28, 2013, the Subcommittee on Disability Assistance and Memorial Affairs conducted a legislative hearing on various bills introduced during the 113th Congress, including H.R. 2189 (from which section 101 of H.R. 2189, as amended, is derived), H.R. 2138 (from which sections 102, 103, 104, and 105 of H.R. 2189, as amended, are derived), H.R. 2382 (from which section 106 of H.R. 2189, as amended, is derived), H.R. 1623 (from which section 107 of H.R. 2189, as amended, is derived), H.R. 1809 (from which section 109 of H.R. 2189, as amended, is derived), H.R. 2423 (from which section 201 of H.R. 2189, as amended, is derived), H.R. 2341 (from which section 202 of H.R. 2189, as amended, is derived), H.R. 2086 (from which section 203 of H.R. 2189, as amended, is derived), H.R. 1494 (from which section 301 of H.R. 2189, as amended, is derived), and H.R. 1288 (from which section 302 of H.R. 2189, as amended, is derived). The following witnesses testified:

The Honorable G.K. Butterfield, U.S. House of Representatives; The Honorable Christopher Gibson, U.S. House of Representatives; The Honorable Kevin McCarthy, U.S. House of Representatives; Verna Jones, Director, Veterans Affairs and Rehabilitation Commission, The American Legion; Mr. Alexander Nicholson, Legislative Director, Iraq and Afghanistan Veterans of America; Heather Ansley, Esq., MSW, Vice President of Veterans Policy VetsFirst, a program of United Spinal Association; Thomas Murphy, Director, Compensation Service U.S. Department of Veterans Affairs, accompanied by Richard Hipolit, Assistant General Counsel, U.S. Department of Veterans Affairs. The following groups or individuals submitted statements for the record: Disabled American Veterans; Paralyzed Veterans of America; J. Don Horton.

#### SUBCOMMITTEE CONSIDERATION

On July 17, 2013, the Subcommittee on Disability Assistance and Memorial Affairs met in an open markup session, a quorum being present, and favorably forwarded to the full Committee H.R. 2086, as amended, H.R. 2189, as amended, and H.R. 2423, as amended, by voice vote.

During consideration of H.R. 2086, the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Ms. Titus of Nevada that modifies the original text to terminate the bifur-

cated payment system at eight years from enactment, and that incorporates provisions from H.R. 1288, H.R. 1623, with technical amendment to ensure VA metrics provided pursuant to this measure be for each Regional Office and for VA as a whole, and H.R. 1809. Additionally, the amendment in the nature of a substitute incorporated the text of H.R. 2185, originally offered by Representative Stephen F. Lynch of Massachusetts, to provide for a moment of silence on Veterans' Day.

During consideration of H.R. 2189, the following amendments were considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Runyan of New Jersey that incorporates provisions from H.R. 2138, with amendment clarifying that work performed pursuant to this measure to implement VA's Strategic Plan to Eliminate the Compensation Claims Backlog shall be in addition to, and consistent with, any actions taken pursuant to the work of the commission or task force, and amendment that changed the reporting period of the Comptroller General of the United States to one year from enactment.

An amendment to the amendment in the nature of a substitute offered by Ms. Titus of Nevada, which would provide for a subcommittee of the commission or task force that would focus upon the appeals backlog and process.

During consideration of H.R. 2423, the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Runyan of New Jersey that incorporates provisions from H.R. 1494, H.R. 2341, and H.R. 2382, with amendment to add priority for homeless veterans, recipients of Medal of Honor, Prisoners of War, seriously and very seriously injured, and claims being reviewed again in relation to a previously denied claim of military sexual trauma. Additionally, the amendment in the nature of a substitute incorporated the text of H.R. 864, originally offered by Representative Mike McIntyre of North Carolina, to direct the Secretary of Veterans Affairs to designate at least one city in the United States each year as an "American World War II City."

#### COMMITTEE CONSIDERATION

On August 1, 2013, the Full Committee met in an open markup session, a quorum being present, and ordered H.R. 2189, as amended, reported favorably to the House of Representatives by voice vote.

During consideration of H.R. 2189, as amended, the following amendment was considered and agreed to by voice vote:

An amendment in the nature of a substitute offered by Mr. Runyan of New Jersey that modifies the text so as to restructure the commission or task force as a single entity with two subcommittees that would focus respectively upon the backlog of claims and the backlog of appeals, as well as to clarify the commission or task force scope, membership, advisors, and defined terms. The amendment also alters the claims processor training program from three years to two years, to comport with VA's input on training requirements, and modifies the text to provide that VA shall report upon its implementation of the Strategic Plan to Eliminate the Compensation Claims Backlog. This amendment also incorporates pro-

visions from H.R. 2086, as amended, with amendment to clarify that payments made are bifurcated, rather than interim, and to alter the effective dates of certain provisions. Additionally, this amendment incorporates provisions from H.R. 2423, as amended, with amendment to exempt certain transfers to special needs trusts from the transfers of assets prohibited within three years of seeking pension benefits under title 38, United States Code. The provisions contained in H.R. 2423, as amended, were also amended to clarify the time period in relation to Vietnam conflict, and to permit the Secretary of Veterans Affairs additional considerations when determining which regional offices would be selected within the group of 15 to allow contract physicians to conduct compensation and pension examinations.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes taken on amendments or in connection with ordering H.R. 2189, as amended, reported to the House. A motion by Ranking Member Michael H. Michaud of Maine to report H.R. 2189, as amended, favorably to the House of Representatives was agreed to by voice vote.

#### 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 are reflected in the descriptive portions of this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2189, 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 cost estimate on H.R. 2189, as amended, prepared by the Director of the Congressional Budget

Office pursuant to section 402 of the Congressional Budget Act of 1974.

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. 2189, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 26, 2013.*

Hon. JEFF MILLER,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2189, a bill to improve the processing of disability claims by the Department of Veterans Affairs, and for other purposes.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 2189—A bill to improve the processing of disability claims by the Department of Veterans Affairs, and for other purposes*

Summary: H.R. 2189 would modify several programs administered by the Department of Veterans Affairs (VA) including those providing disability compensation and pensions to veterans. Also, the bill would require VA to establish a commission to review the backlog of claims for disability compensation and the process for appealing the denial of such claims, and would require the commission to submit a number of reports to the Congress.

CBO estimates that enacting H.R. 2189 would decrease net direct spending by \$412 million over the 2014–2018 period and by \$471 million over the 2014–2023 period. Because enacting the legislation would affect direct spending, pay-as-you-go procedures apply. CBO also estimates that implementing H.R. 2189 would have a discretionary cost of \$126 million over the 2014–2018 period, assuming appropriation of the necessary amounts.

H.R. 2189 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state licensing laws governing health care professionals in some circumstances. CBO estimates that the costs of the intergovernmental mandate would be small and would not exceed the threshold established in UMRA (\$75 million in 2013, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2189 is shown in the following table. The costs of this legislation fall within budget functions 700 (veterans benefits and services) and 550 (health).

TABLE 1—ESTIMATED BUDGETARY EFFECTS OF H.R. 2189

|                                              | By fiscal year, in millions of dollars— |      |      |      |      |           |
|----------------------------------------------|-----------------------------------------|------|------|------|------|-----------|
|                                              | 2014                                    | 2015 | 2016 | 2017 | 2018 | 2014–2018 |
| CHANGES IN DIRECT SPENDING <sup>a</sup>      |                                         |      |      |      |      |           |
| Estimated Budget Authority .....             | 0                                       | 12   | –3   | –199 | –243 | –432      |
| Estimated Outlays .....                      | 0                                       | 12   | –3   | –199 | –223 | –412      |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |                                         |      |      |      |      |           |
| Estimated Authorization Level .....          | 4                                       | 44   | 51   | 19   | 8    | 126       |
| Estimated Outlays .....                      | 4                                       | 44   | 51   | 19   | 8    | 126       |

Notes: Components may not sum to totals because of rounding.

\* = less than \$500,000.

a. In addition to the changes in direct spending shown above, enacting H.R. 2189 would have effects beyond 2018 (see Table 2). CBO estimates that over the 2014–2023 period, H.R. 2189 would decrease net direct spending by \$471 million.

**Basis of estimate:** For this estimate, CBO assumes H.R. 2189 will be enacted near the start of fiscal year 2014, that the estimated authorizations will be appropriated near the start of each fiscal year, and that outlays will follow historical spending patterns for similar and existing programs.

#### *Direct spending*

H.R. 2189 would make several changes to programs administered by VA including disability compensation and pensions. CBO estimates that enacting H.R. 2189 would decrease net direct spending by \$471 million over the 2014–2023 period (see Table 2).

TABLE 2—ESTIMATED EFFECTS ON DIRECT SPENDING UNDER H.R. 2189

| Outlays, in millions of dollars, by fiscal year—               |          |           |           |             |             |            |           |           |           |            |             |             |
|----------------------------------------------------------------|----------|-----------|-----------|-------------|-------------|------------|-----------|-----------|-----------|------------|-------------|-------------|
|                                                                | 2014     | 2015      | 2016      | 2017        | 2018        | 2019       | 2020      | 2021      | 2022      | 2023       | 2014–2018   | 2014–2023   |
| CHANGES IN DIRECT SPENDING                                     |          |           |           |             |             |            |           |           |           |            |             |             |
| Pensions for Veterans in Medicaid-Approved Nursing Homes ..... | 0        | 0         | 0         | -195        | -218        | -20        | 0         | 0         | 0         | 0          | -413        | -433        |
| Asset Look-Back for Disability Pensions .....                  | 0        | -1        | -3        | -4          | -5          | -5         | -5        | -5        | -5        | -5         | -13         | -38         |
| Immediate Payments of Adjudicated Claims .....                 | 0        | 13        | *         | *           | *           | *          | *         | *         | *         | -16        | 14          | 0           |
| <b>Total Changes .....</b>                                     | <b>0</b> | <b>12</b> | <b>-3</b> | <b>-199</b> | <b>-223</b> | <b>-25</b> | <b>-5</b> | <b>-5</b> | <b>-5</b> | <b>-21</b> | <b>-412</b> | <b>-471</b> |

Notes: Components may not sum to totals because of rounding.  
 \* = less than \$500,000.

**Pensions for Veterans in Medicaid-Approved Nursing Homes.** Section 204 would extend the expiration date of a provision of current law that sets a \$90 per month limit on pensions paid to any veteran who does not have a spouse or child and who is receiving Medicaid benefits in a Medicaid-approved nursing home; that provision also applies to any survivor of a veteran who is receiving such coverage. That limit on pension benefits would be extended through September 30, 2018, and would reduce such benefits for 22 months, with the last affected payment being disbursed in October 2018.

Using data provided by VA, CBO estimates that about 15,000 veterans and 19,000 survivors would be affected by this provision and that the average monthly savings to VA would be about \$1,825 per veteran and \$1,140 per survivor. (Those projections account for inflation, mortality rates, and new nursing home patients.) On that basis, CBO estimates that enacting the provision would reduce VA spending by \$490 million in 2017 and about \$1.1 billion over the 2017–2019 period. Higher Medicaid payments to nursing homes would offset some of those savings. We estimate that those costs would total \$654 million. The net reduction in direct spending resulting from this provision would total \$195 million in 2017 and \$433 million over the 2017–2019 period, with no effects after 2019.

**Asset Look-Back for Disability Pensions.** Section 202 would authorize VA to conduct a review of the financial records of individuals applying for veterans' or survivors' pension benefits in 2015 or later. The review would cover the three years preceding each application. This look-back would determine if applicants disposed of any assets or resources for less than fair market value to become eligible for pension benefits. Based on information from VA and the Government Accountability Office about the income and resources of most pension applicants, CBO expects that less than 1 percent of all eligible veterans or survivors would have disposed of assets that would disqualify them from eligibility within the three-year window. Therefore, CBO estimates that in 2015, about 100 veterans and 70 survivors who will apply over the course of that year would be disqualified from eligibility because of the review and that a similar trend would continue in subsequent years. Such individuals would be disqualified, on average, for three years.

CBO estimates an average veteran's pension rate will be about \$9,800 in 2015 and an average survivor's pension rate will be about \$6,300 in that year. After accounting for inflation and mortality, CBO estimates that enacting section 202 would decrease direct spending by \$38 million over the 2015–2023 period. The administrative costs to conduct these reviews are discussed below in the "Spending Subject to Appropriation" section of the estimate.

**Immediate Payments of Adjudicated Claims.** Section 203 would require VA to pay a disability benefit to a veteran as claims are decided if the veteran files claims for more than one disability at the same time. That requirement to make partial payments would be in force during the eight-year period from 2015 through 2022. Under current law, VA has the authority to make such partial payments for multiple claims should it be able to quickly decide one of the claims, but that authority is rarely used.

Once adjudicated, VA benefits are paid retroactively from the date of the initial application. That is, veterans usually receive an

initial lump-sum payment that covers the months since their application was submitted. Thus, section 203 would have the effect of shifting some payments to an earlier fiscal year by paying some veterans a part of their benefit earlier than they would otherwise receive it. However, those early payments would be fully offset by savings in the following year when the retroactive payments would normally be made.

Based on information from VA, and assuming trends similar to those observed in previous years, CBO expects about 260,000 veterans will apply for disability benefits for the first time in 2015. CBO assumes that veterans who begin receiving payments at a disability rating of 50 percent or greater (about 90,000 veterans) would probably have applied to be compensated for more than one disability. Of those, CBO estimates that about 20 percent would have a claim that could be adjudicated quickly, and that two-thirds of those—about 12,300—would then be paid one year earlier than under current law. Assuming an average rating of 10 percent (\$134 per month) for the quickly adjudicated claims, and an average of eight months of benefits, CBO estimates that enacting section 203 would increase direct spending by \$13 million in 2015. However, that new spending in 2015 would be offset by an equal reduction in spending in 2016. In each subsequent year, a similar effect would be seen—increased spending in one year followed by decreased spending in the following year. CBO adjusts the amount of the accelerated spending each year to account for inflation and population growth.

The requirement under section 203 would end in 2022. Paying some claims early in 2022 would yield about \$16 million in savings in 2023. Therefore, CBO estimates that enacting section 203 would cost \$14 million over the 2015–2018 period, but would have a net direct spending effect of zero over the 2015–2023 period.

**Benefits for Coastwise Merchant Mariners.** Section 302 would extend eligibility for burial benefits and medals, ribbons, or decorations to merchant mariners who have the documents to prove they served off the coast of the United States between December 7, 1941, and December 31, 1946.

Based on information from VA and the U.S. Coastwise Merchant Seamen's Association, CBO estimates that the survivors of roughly 300 eligible merchant mariners would apply for a burial marker and a ribbon or medallion in 2014 at a cost of about \$200 per request. Because most of the eligible population is deceased, CBO expects the number of applications would decline steadily in subsequent years. Thus, CBO estimates that section 302 would have an insignificant impact on direct spending.

#### *Spending subject to appropriation*

**H.R. 2189** would extend VA's authority to contract with non-VA physicians to conduct disability exams and require VA to provide several reports to the Congress regarding the disability claims process. CBO estimates that implementing H.R. 2189 would cost \$126 million over the 2014–2018 period, subject to appropriation of the necessary amounts (see Table 3).

**Disability Examinations by Contract Physicians.** Section 201 would extend the pilot program that allows VA to use contract physicians to perform medical disability examinations to December 31,

2016, and would expand the pilot program to include five additional facilities. Under current law, that authority will expire on December 31, 2013, and is permitted at 10 facilities. However, the provision would not take effect until October 1, 2014 (the beginning of fiscal year 2015). Based on information from VA, CBO estimates that, in 2012, VA used the current authority to have about 36,000 exams completed by contract physicians at a cost of about \$800 per exam. Under section 201, we expect VA would complete 54,000 exams each year over the 2015–2017 period.

In the absence of such authority, VA physicians who would otherwise be providing other types of health care to veterans will perform the exams, at no additional cost to VA. Thus, taking inflation into account, CBO estimates that implementing section 201 would cost \$97 million over the 2015–2018 period, assuming appropriation of the necessary amounts.

Asset Look-Back for Disability Pensions. Section 202 would authorize VA to conduct a review of the financial records of all applicants for pensions. The review would cover the three years preceding each application. This look-back would determine if applicants disposed of any assets or resources for less than fair market value in order to become eligible for pension benefits. Individuals who were found to have disposed of such assets would be ineligible to receive pensions for up to three years, depending on the value of the assets involved. This provision would only affect those individuals applying for veterans' or survivors' pension benefits starting in 2015.

TABLE 3—ESTIMATED EFFECTS ON SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2189

|                                                 | By fiscal year, in millions of dollars— |      |      |      |      |           |
|-------------------------------------------------|-----------------------------------------|------|------|------|------|-----------|
|                                                 | 2014                                    | 2015 | 2016 | 2017 | 2018 | 2014–2018 |
| <b>Disability Exams by Contract Physicians:</b> |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 0                                       | 43   | 43   | 11   | 0    | 97        |
| Estimated Outlays .....                         | 0                                       | 43   | 43   | 11   | 0    | 97        |
| <b>Asset Look-Back for Disability Pensions:</b> |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 0                                       | 0    | 7    | 7    | 7    | 21        |
| Estimated Outlays .....                         | 0                                       | 0    | 7    | 7    | 7    | 21        |
| <b>Evaluation of Disability Claims Backlog:</b> |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 2                                       | 0    | 0    | 0    | 0    | 2         |
| Estimated Outlays .....                         | 2                                       | 0    | 0    | 0    | 0    | 2         |
| <b>Reports:</b>                                 |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 1                                       | *    | *    | *    | *    | 2         |
| Estimated Outlays .....                         | 1                                       | *    | *    | *    | *    | 2         |
| <b>Other Provisions:</b>                        |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 1                                       | 1    | 1    | 1    | 1    | 4         |
| Estimated Outlays .....                         | 1                                       | 1    | 1    | 1    | 1    | 4         |
| <b>Total Changes:</b>                           |                                         |      |      |      |      |           |
| Estimated Authorization Level .....             | 4                                       | 44   | 51   | 19   | 8    | 126       |
| Estimated Outlays .....                         | 4                                       | 44   | 51   | 19   | 8    | 126       |

Notes: Components may not sum to totals because of rounding.

\* = less than \$500,000.

Based on information from VA on the time needed to process a pension claim, CBO estimates that VA would eventually hire about 70 employees to maintain the current processing times. VA reports that under this provision, most of the additional employees would be hired at the beginning of fiscal year 2016. At an average cost of about \$100,000 per employee, CBO estimates that implementing section 501 would cost \$21 million over the 2015–2018 period. The

savings from reduced spending for pension benefits are discussed in the “Direct Spending” section of this estimate.

Evaluation of the Disability Claims Backlog. Section 101 would establish a commission tasked with creating a plan to eliminate the disability claims backlog, improve the disability claims process, and reduce the number of appeals filed for disapproved claims. The commission would have 21 members plus a paid staff and would exist for about seven months. The commission would be required to submit interim reports and a final report within 180 days of the commission’s first meeting. Based on the costs of similar commissions, CBO estimates that implementing section 101 would cost about \$2 million over the 2014–2018 period, subject to appropriation of the necessary amounts.

Reports. H.R. 2189 would require VA to complete several reports by various deadlines. CBO estimates that those provisions, collectively, would cost about \$2 million over the 2014–2018 period, assuming appropriation of the necessary amounts.

Other provisions. H.R. 2189 also contains numerous provisions that individually would have an insignificant impact on spending subject to appropriation. However, CBO estimates that those provisions, collectively, would cost about \$4 million over the 2014–2018 period, mostly for additional administrative activities, assuming availability of the necessary amounts.

- Section 103 would require VA to enter into agreements with the Social Security Administration and Department of Defense to ensure that the transfer of requested disability or medical records that VA uses to make disability determinations would occur within 30 days of the VA’s request for such records.

- Section 104 would require VA to establish a training process for newly hired claims processors. According to VA, it has already begun the process of establishing new claims processor training programs. Most of the requirements of section 104 would align with VA’s new training program.

- Section 106 would require VA to establish a system of priorities for processing claims.

- Section 107 would require VA to include a page on the agency’s website listing information about pending and completed claims.

- Section 109 would require VA to post information at its regional facilities and on its website about the average processing times for various types of claims submitted by veterans.

- Section 203 would require VA to begin paying certain adjudicated claims upon completion if the veteran files a claim for more than one claim.

- Section 302 would require VA to process claims for coastwise merchant mariners for burial benefits.

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 the following table.



Estimated impact on state, local, and tribal governments: The bill would authorize physicians, under a contract with the Department of Veterans Affairs, to perform medical exams in any location and in any state as long as the physician is licensed by another state to practice medicine. That provision would preempt state licensing laws and impose an intergovernmental mandate as defined in UMRA. While states could lose a small amount of revenue from fewer license fees, the bill would impose no other duty that would result in additional spending. CBO estimates that the cost of complying with the mandate would be well below the threshold established in UMRA (\$75 million in 2013, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 2189 contains no private-sector mandates as defined in UMRA.

Previous CBO estimate: On May 16, 2013, CBO transmitted a cost estimate for H.R. 1412, the Improving Job Opportunities for Veterans Act of 2013, as ordered reported by the House Committee on Veterans' Affairs on May 8, 2013. Section 204 of H.R. 2189 would extend a provision from November 30, 2016, to September 30, 2018, whereas section 4 of H.R. 1412 would extend the provision for a month to December 31, 2016. The differences in estimated savings reflect the differences in the expiration dates.

Estimate prepared by: Federal Costs: Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

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

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 2189, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### 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. 2189, as amended.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation 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.

#### STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 2189, as amended, estab-

lishes or reauthorizes 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.

#### DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that H.R. 2189, as amended, does not require any directed rulemakings.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1—Table of Contents*

Section 1 contains a table of contents.

##### *Section 2—Scoring of budgetary effects*

Section 2 contains budgetary information regarding compliance with the Statutory Pay-As-You-Go Act of 2010.

#### TITLE I

##### *Section 101—Evaluation of backlog of disability claims and appeals of claims of Department of Veterans Affairs*

Section 101(a) would establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs, and the appeals process of claims.

Section 101(b) would provide for the considerations to be made by the commission or task force, matters included within the backlog of claims study and the backlog of appeals study, and would set forth the role of the Secretary, Chairman of the Board of Veterans' Appeals, and Chief Judge of the United States Court of Veterans Claims.

Section 101(c) would provide for initial, interim, and final comprehensive reporting on the studies conducted of the backlog of claims and appeals.

Section 101(d) would provide for the membership of the commission or task force, as well as the structure of the subcommittees, qualifications, advisors, and chairman's role. This subsection would also provide the period of appointment of members, vacancy considerations, and appointment deadline.

Section 101(e) would provide for the timeline of commission or task force meetings, as well as rules on quorum.

Section 101(f) would provide the powers of the commission or task force as regards holding hearings, obtaining information from federal agencies, use of postal services, and disposition of gifts.

Section 101(g) would provide for compensation of commission or task force members, travel expenses, and would guide staff appointment and compensation, and permit detailing of federal government employees to the commission or task force to assist in carrying out its duties and procurement of temporary and intermittent services.

Section 101(h) would provide for the termination of the commission or task force sixty days after submission of its final comprehensive report.

Section 101(i) would provide that the Secretary shall, upon request, provide funding as required by the commission or task force, which funding would remain available without fiscal year limitations.

Section 101(j) provides defined terms.

*Section 102—Supplemental reports to the Strategic Plan to Eliminate the Compensation Claims Backlog*

Section 102 would direct the Secretary of Veterans Affairs to provide a supplemental report to the Strategic Plan to Eliminate the Compensation Claims Backlog within 60 days of enactment, and every 120 days thereafter until May 25, 2015.

*Section 103—Expedition of transfer of certain records*

Section 103(a) would direct the Secretary of Veterans Affairs to enter into an agreement with the Commissioner of the Social Security Administration within 60 days of enactment, to provide for expedited transfer of records.

Section 103(b) would direct the Secretary of Veterans Affairs to enter into an agreement with the Secretary of Defense within 60 days of enactment, to provide for expedited transfer of records.

Section 103(c) would require the Secretary of Veterans Affairs and the Secretary of Defense to jointly form, provide, and implement a plan to reduce to 30 days the amount of time needed to provide records of members of the National Guard.

*Section 104—Claims processors training*

Section 104(a) would require the Secretary of Veterans Affairs to establish a two year training program for newly hired claims processors.

Section 104(b) would require VA to execute the training program for newly hired claims processors without increasing the amount of time in which claims are processed.

Section 104(c) would set the effective date of this section one year after the enactment of the Act.

*Section 105—Report by Comptroller General of the United States*

Section 105 would require the Comptroller General to submit to Congress a report on the progress of the Secretary of Veterans Affairs in implementing the Strategic Plan to Eliminate the Compensation Claims Backlog within one year of enactment of the Act.

*Section 106—Priority for processing claims of the Department of Veterans Affairs*

Section 106(a) would add a new section to subchapter I of chapter 51 of title 38, United States Code, which would require the Secretary of Veterans Affairs to prioritize disability benefits claims submitted by veterans who have attained the age of 70, who are terminally ill, have life-threatening illnesses, are homeless, have received the Medal of Honor, were prisoners of war, were seriously or very seriously injured, and those whose claims are being reviewed again in relation to a previously denied claim relating to

military sexual trauma. Additionally, this section allows prioritization for good cause shown at the discretion of the Secretary of Veterans Affairs on a case by case basis.

Section 106(b) provides a clerical amendment.

*Section 107—Public availability of certain information about pending and completed claims for compensation under the laws administered by the Secretary of Veterans Affairs*

Section 107(a) would add a new section to subchapter I of chapter 51 of title 38, United States Code, which would require the Secretary of Veterans Affairs to maintain certain enumerated information on pending and completed claims, as well as medical issue determinations, upon the VA website, which would be updated at least once per week.

Section 107(b) provides a clerical amendment.

*Sec. 108. Annual report on processing of claims*

Section 108(a) would require the Secretary of Veterans Affairs to include, within VA's annual report to Congress as required by section 529 of title 38, United States Code, information on the automatic processing of claims for compensation, the performance of any regional office that fails to meet the administrative goals of the regional office with respect to timeliness and accuracy in processing claims, and the timeliness of receiving information pursuant to a request by the Secretary to the head of another department or agency of the United States for information required by VA in adjudicating a claim for compensation.

Section 108(b) provides a clerical amendment.

*Sec. 109. Department of Veterans Affairs notice of average times for processing claims and percentage of claims approved*

Section 109(a) would provide for public notice of the information that is required to be collected by this section to be posted in each regional office and claims intake facility of VA and on the VA website.

Section 109(b) would require the Secretary of Veterans Affairs to provide notice to claimants of the information that is required to be collected by this section, pursuant to subsection (c), as well as notice that for the period ending on August 6, 2015, claimants are eligible to receive up to an extra year of benefits payments if filing a claim that is fully developed. This subsection would also require claimants to include a signed form with their application acknowledging that the claimant received the notice provided by this subsection.

Section 109(c) would require VA to collect information on the average processing times of specific types of enumerated claims, including fully developed electronic claims, fully developed paper claims, not fully developed electronic claims, not fully developed standard paper format, and not fully developed non-standard paper format, as well as information on the percentage of each such submitted claim for which benefits are awarded. This subsection would also require VA to collect information on the percentage of claims that are awarded benefits based upon the type of representation received by the veteran in the claims process.

Section 109(d) would set the effective date of this section one year after the enactment of the Act.

*Sec. 110. Claim defined*

Section 110 defines the term “claim,” for the purposes of Title I, as a claim for disability compensation under the laws administered by the Secretary of Veterans Affairs.

TITLE II—COMPENSATION AND PENSIONS

*Sec. 201. Improvements to authority for performance of medical disabilities examinations by contract physicians*

Section 201(a) would extend from December 31, 2013, through December 31, 2016, VA’s authority under the Veterans Benefits Act of 2003 to provide for medical examinations by contract physicians in claims for VA disability benefits.

Section 201(b) would address physician licensure issues for contract physicians, as it would permit physicians who possess a license to practice the health care profession of the physician to perform compensation and pension examinations under the authority of VA at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

Section 201(c) would grant authority to VA to extend the pilot program with contract physicians, established within the Veterans’ Benefits Improvement Act of 1996, to five additional Regional Offices, thus permitting VA to increase from 10 Regional Office to 15 Regional Offices.

Section 201(d) would set the effective date of this section one year after the enactment of the Act.

*Sec. 202. Consideration by Secretary of Veterans Affairs of resources disposed of for less than fair market value by individuals applying for pension*

Section 202(a) would amend section 1522 of title 38, United States Code, and would create a three-year look-back period for disposal of covered resources for less than fair market value, in order to determine veteran eligibility for the VA pension program.

Section 202(b) would amend section 1543 of title 38, United States Code, and would create a three-year look-back period for disposal of covered resources for less than fair market value, in order to determine surviving spouse and children’s eligibility for the VA pension program.

Section 202(c) would set the effective date of this section one year after the enactment of the Act.

Section 202(d) would require VA to submit to the appropriate committees of Congress a report on the administration of this section during the most recent 12-month period, no later than two years after the date of enactment, and at least once per year thereafter through 2018.

*Sec. 203. Bifurcated payments of compensation benefits under laws administered by the Secretary of Veterans Affairs*

Section 203(a) would add a new section to subchapter III of chapter 51 of title 38, United States Code, which would require the Secretary of Veterans Affairs, in claims in which adjudication requires decision making with respect to two or more disabilities, to pay the claimant any monetary benefits awarded to the claimant for individual conditions as other conditions are further developed.

Section 203(b) provides a clerical amendment.

Section 203(c) would set the effective date of this section one year after the enactment of the Act.

*Sec. 204. Pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities*

Section 204 would extend the limitation on pension for certain veterans covered by Medicaid plans for services furnished by nursing facilities from November 30, 2016 to September 30, 2018.

TITLE III—OTHER MATTERS

*Sec. 301. Review of operation of certain ships during the Vietnam Era*

Section 301(a) would require, within one year of enactment, the Secretary of Defense to review the logs of each ship under the authority of the Secretary of the Navy that is known to have operated in the waters near Vietnam during the period January 9, 1962 through May 7, 1975, and determine which ships operated in the territorial waters of the Republic of Vietnam, and for what period of time.

Section 301(b) would require the Secretary of Defense to notify the Secretary of Veterans Affairs of its findings on Vietnam ships.

Section 301(c) would require the Secretary of Veterans Affairs to make the all unclassified information, provided by the Secretary of Defense under this section, publicly available.

*Sec. 302. Methods for validating certain service considered to be active service by the Secretary of Veterans Affairs*

Section 302(a) makes findings of Congress on merchant mariners.

Section 302(b) would direct the Secretary of Homeland Security to accept additional documentation when considering the application for veterans' status of an individual who performed service as a coastwise merchant seaman during World War II. This section would also provide that qualified merchant mariners shall be honored as a veteran and shall be entitled to veteran designation, burial benefits, and military decoration, that they shall not be entitled by reason of such recognized service to any benefit that is not described in this subsection.

*Sec. 303. Designation of American World War II Cities*

Section 303(a) would require the Secretary of Veterans Affairs to designate at least one city in the United States each year as an "American World War II City."

Section 303(b) would provide criteria for consideration of the designation as an "American World War II City."

*Sec. 304. Observance of Veterans Day*

Section 304(a) would provide for a codified two minute moment of silence on Veterans Day in honor of the service and sacrifice of veterans throughout history.

Section 304(b) would provide a clerical amendment.

## 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 italic, existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED  
DISABILITY OR DEATH OR FOR SERVICE**

\* \* \* \* \*

**SUBCHAPTER II—VETERANS' PENSIONS**

\* \* \* \* \*

**§ 1522. Net worth limitation**

(a)(1) The Secretary shall deny or discontinue the payment of pension to a veteran under section 1513 or 1521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

(2)(A) *If a veteran otherwise eligible for payment of pension under section 1513 or 1521 of this title or the spouse of such veteran disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such veteran under section 1513 or 1521 of this title, as the case may be, for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).*

(B)(i) *For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse, that the Secretary considers that under all the circumstances, if the veteran or spouse had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the veteran's maintenance.*

(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse, that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the veteran's maintenance.

(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

(ii) The date described in this clause is the date on which the veteran applies for pension under section 1513 or 1521 of this title or, if later, the date on which the veteran (or the spouse of the veteran) disposes of covered resources for less than fair market value.

(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

(E) The number of months calculated under this subparagraph shall be equal to—

(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the veteran (or the spouse of the veteran) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the veteran's maintenance; divided by

(ii) the maximum amount of monthly pension that is payable to a veteran under section 1513 or 1521 of this title, including the maximum amount of increased pension payable under such sections on account of family members, but not including any amount of pension payable under such sections because a veteran is in need of regular aid and attendance or is permanently housebound,

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

(b)(1) The Secretary shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.

(2)(A) If a veteran otherwise eligible for payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child, the spouse of the veteran, or the child disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue payment of such increased pension for months during the period beginning on the date described in subparagraph

(D) and equal to the number of months calculated as provided in subparagraph (E).

(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child that the Secretary considers that under all the circumstances, if the veteran, the spouse of the veteran, or the child had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child's maintenance.

(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the child that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child's maintenance.

(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

(ii) The date described in this clause is the date on which the veteran applies for payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child or, if later, the date on which the veteran, the spouse of the veteran, or the child disposes of covered resources for less than fair market value.

(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

(E) The number of months calculated under this subparagraph shall be equal to—

(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the veteran, the spouse of the veteran, or the child on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child's maintenance; divided by

(ii) the maximum amount of increased monthly pension that is payable to a veteran under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child, rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

(c)(1) The Secretary shall not deny or discontinue payment of pension under section 1513 or 1521 of this title or payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child by reason of the application of subsection (a)(2) or (b)(2) of this section to the disposal of resources by an individual to the extent that—

(A) a satisfactory showing is made to the Secretary (in accordance with regulations promulgated by the Secretary) that all resources disposed of for less than fair market value have been returned to the individual who disposed of the resources; or

(B) the Secretary determines, under procedures established by the Secretary, that the denial or discontinuance of payment

would work an undue hardship as determined on the basis of criteria established by the Secretary.

(2) At the time a veteran applies for pension under section 1513 or 1521 of this title or increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child, and at such other times as the Secretary considers appropriate, the Secretary shall—

(A) inform such veteran of the provisions of subsections (a)(2) and (b)(2) providing for a period of ineligibility for payment of pension under such sections for individuals who make certain dispositions of resources for less than fair market value; and

(B) obtain from such veteran information which may be used in determining whether or not a period of ineligibility for such payments would be required by reason of such subsections.

(d) Subsections (a)(2) and (b)(2) shall not apply with respect to the disposal of resources or the transfer of an asset if such disposal or transfer is to a trust described in section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) that is established for the benefit of a child of the veteran.

\* \* \* \* \*

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

\* \* \* \* \*

**§ 1543. Net worth limitation**

(a)(1) \* \* \*

(2)(A) If a surviving spouse otherwise eligible for payment of pension under section 1541 of this title disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such surviving spouse under section 1541 of this title for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the surviving spouse that the Secretary considers that under all the circumstances, if the surviving spouse had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the surviving spouse's maintenance.

(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the surviving spouse that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the surviving spouse's maintenance.

(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

(ii) The date described in this clause is the date on which the surviving spouse applies for pension under section 1541 of this title or,

*if later, the date on which the surviving spouse disposes of covered resources for less than fair market value.*

*(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.*

*(E) The number of months calculated under this subparagraph shall be equal to—*

*(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the surviving spouse on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the surviving spouse's maintenance; divided by*

*(ii) the maximum amount of monthly pension that is payable to a surviving spouse under section 1541 of this title, including the maximum amount of increased pension payable under such section on account of a child, but not including any amount of pension payable under such section because a surviving spouse is in need of regular aid and attendance or is permanently housebound,*

*rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.*

*(F) In the case of a transfer by the surviving spouse during the veteran's lifetime that resulted in a period of ineligibility for the veteran under section 1522 of this title, the Secretary shall apply to the surviving spouse any remaining ineligibility for that period.*

**[(2)] (3)** The Secretary shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

*(4)(A) If a surviving spouse otherwise eligible for payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child or the child disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue payment of such increased pension for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).*

*(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child that the Secretary considers that under all the circumstances, if the surviving spouse or the child had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child's maintenance.*

*(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a transfer of an asset (including a transfer of an asset to an annuity,*

trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate of the child that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child's maintenance.

(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

(ii) The date described in this clause is the date on which the surviving spouse applies for payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child or, if later, the date on which the surviving spouse (or the child) disposes of covered resources for less than fair market value.

(D) The date described in this subparagraph is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

(E) The number of months calculated under this clause shall be equal to—

(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by surviving spouse (or the child) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child's maintenance; divided by

(ii) the maximum amount of increased monthly pension that is payable to a surviving spouse under subsection (c), (d), or (e) of section 1541 of this title on account of a child,

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

(b)(1) The Secretary shall deny or discontinue payment of pension to a child under section 1542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.

(2)(A) If a child otherwise eligible for payment of pension under section 1542 of this title or any person with whom such child is residing who is legally responsible for such child's support disposes of covered resources for less than fair market value on or after the look-back date described in subparagraph (C)(i), the Secretary shall deny or discontinue the payment of pension to such child under section 1542 of this title for months during the period beginning on the date described in subparagraph (D) and equal to the number of months calculated as provided in subparagraph (E).

(B)(i) For purposes of this paragraph, a covered resource is any resource that was a part of the corpus of the estate of the child or the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support that the Secretary considers that under all the circumstances, if the child or person had not disposed of such resource, it would be reasonable that the resource (or some portion of the resource) be consumed for the child's maintenance.

(ii) For purposes of this paragraph, the Secretary may consider, in accordance with regulations the Secretary shall prescribe, a

transfer of an asset (including a transfer of an asset to an annuity, trust, or other financial instrument or investment) a disposal of a covered resource for less than fair market value if such transfer reduces the amount in the corpus of the estate described in clause (i) that the Secretary considers, under all the circumstances, would be reasonable to be consumed for the child's maintenance.

(C)(i) The look-back date described in this clause is a date that is 36 months before the date described in clause (ii).

(ii) The date described in this clause is the date on which the child applies for pension under section 1542 of this title or, if later, the date on which the child (or person described in subparagraph (B)) disposes of covered resources for less than fair market value.

(D) The date described in this clause is the first day of the first month in or after which covered resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

(E) The number of months calculated under this clause shall be equal to—

(i) the total, cumulative uncompensated value of the portion of covered resources so disposed of by the child (or person described in subparagraph (B)) on or after the look-back date described in subparagraph (C)(i) that the Secretary determines would reasonably have been consumed for the child's maintenance; divided by

(ii) the maximum amount of monthly pension that is payable to a child under section 1542 of this title, rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

(c)(1) The Secretary shall not deny or discontinue payment of pension under section 1541 or 1542 of this title or payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child by reason of the application of subsection (a)(2), (a)(4), or (b)(2) of this section to the disposal of resources by an individual to the extent that—

(A) a satisfactory showing is made to the Secretary (in accordance with regulations promulgated by the Secretary) that all resources disposed of for less than fair market value have been returned to the individual who disposed of the resources; or

(B) the Secretary determines, under procedures established by the Secretary, that the denial or discontinuance of payment would work an undue hardship as determined on the basis of criteria established by the Secretary.

(2) At the time a surviving spouse or child applies for pension under section 1541 or 1542 of this title or increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child, and at such other times as the Secretary considers appropriate, the Secretary shall—

(A) inform such surviving spouse or child of the provisions of subsections (a)(2), (a)(4), and (b)(2), as applicable, providing for a period of ineligibility for payment of pension or increased pension under such sections for individuals who make certain dispositions of resources for less than fair market value; and

(B) obtain from such surviving spouse or child information which may be used in determining whether or not a period of

*ineligibility for such payments would be required by reason of such subsections.*

*(d) Paragraphs (2) and (4) of subsection (a) and subsection (b)(2) shall not apply with respect to the disposal of resources or the transfer of an asset if such disposal or transfer is to a trust described in section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) that is established for the benefit of a child of the veteran or surviving spouse.*

\* \* \* \* \*

**PART IV—GENERAL ADMINISTRATIVE PROVISIONS**

\* \* \* \* \*

**CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS**

SUBCHAPTER I—CLAIMS

Sec.

5100. Definition of “claimant”.

\* \* \* \* \*

5109C. *Priority for processing claims.*

5109D. *Information about pending and completed claims.*

5109E. *Annual report on processing of claims.*

\* \* \* \* \*

SUBCHAPTER III—PAYMENT OF BENEFITS

\* \* \* \* \*

5127. *Bifurcated payments of compensation benefits.*

SUBCHAPTER I—CLAIMS

\* \* \* \* \*

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

*(a) PRIORITY.—In processing claims for compensation under this chapter, the Secretary shall provide the following claimants with priority over other claimants:*

- (1) Veterans who have attained the age of 70.*
- (2) Veterans who are terminally ill.*
- (3) Veterans with life-threatening illnesses.*
- (4) Homeless veterans (as defined in section 2002 of this title).*
- (5) Veterans who were awarded the Medal of Honor.*
- (6) Veterans who are former prisoners of war.*
- (7) Veterans whose claims are being reviewed again in relation to a previously denied claim relating to military sexual trauma.*
- (8) Veterans whom the Secretary determines, on a case-by-case basis, are seriously or very seriously injured.*
- (9) Veterans whom the Secretary determines, on a case-by-case basis, should be given priority under this section based on an application for good cause established by the Secretary.*

*(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out subsection (a).*

**§5109D. Information about pending and completed claims**

(a) *AVAILABILITY OF INFORMATION.*—The Secretary shall maintain on the Internet website of the Department publicly accessible information about pending and completed claims for compensation under chapter 11 of this title. Such information shall include each of the following:

(1) For each regional office and for the Department as a whole—

(A) the average number of days between the date of the submittal of a claim and the date of the decision with respect to the claim for each of the preceding three-month and one-year period;

(B) the average number of days such a claim is pending during the preceding three-month and one-year periods;

(C) the quality and accuracy rating of the claims adjudication process during the preceding three-month and one-year periods;

(D) the number of claims pending;

(E) the number of pending claims that have been pending for more than 125 days; and

(F) the number of claims completed during—

(i) the current month, to date;

(ii) the month preceding the current month;

(iii) the current calendar year, to date; and

(iv) the calendar year preceding the current calendar year.

(2) For each medical condition for which a claim for compensation is submitted, for each regional office and for the Department as a whole—

(A) the average number of days between the date of the submittal of a claim relating to such medical condition and the date of the decision with respect to the claim for each of the preceding three-month and one-year period;

(B) the average number of days such a claim is pending during the preceding three-month and one-year periods;

(C) the quality and accuracy rating of the claims adjudication process as applied to claims relating to such medical condition during the preceding three-month and one-year periods;

(D) the number of pending claims relating to such condition;

(E) the number of such pending claims that have been pending for more than 125 days; and

(F) the number of claims relating to such medical condition completed during—

(i) the current month, to date;

(ii) the month preceding current month;

(iii) the current calendar year, to date; and

(iv) the calendar year preceding the current calendar year.

(b) *UPDATES.*—The Secretary shall update the information on the website under subsection (a) not less frequently than once every seven days.

**§ 5109E. Annual report on processing of claims**

(a) *ANNUAL REPORT.*—The Secretary shall include in the annual report to Congress required under section 529 of this title information on the following:

(1) *The automatic processing of claims for compensation.*

(2) *The performance of any regional office that fails to meet the administrative goals of the regional office with respect to timeliness and accuracy in processing claims for compensation.*

(3) *The timeliness of receiving information pursuant to a request by the Secretary to the head of another department or agency of the United States for information required by the Secretary in adjudicating a claim for compensation under chapter 11 of this title.*

(b) *MATTERS INCLUDED.*—In carrying out subsection (a) to include information in the report required under section 529 of this title, the Secretary shall include the following:

(1) *With respect to the information required by subsection*

(a)(1)—

(A) *each medical condition for which claims relating to such condition were processed in an electronic automated fashion during the fiscal year covered by the report;*

(B) *the feasibility of processing any additional medical conditions in an electronic automated fashion and any barriers to such processing, including any such barriers relating to the schedule for rating disabilities under section 1155 of this title;*

(C) *the number of claims for compensation relating to each medical condition submitted during such fiscal year; and*

(D) *for each medical condition, the percentage of claims denied and the percentage of claims approved during such fiscal year.*

(2) *With respect to the information required by subsection (a)(2), in the case of any regional office that, for the fiscal year covered by the report, did not meet the administrative goal of having no claim pending for more than 125 days and achieving an accuracy rating of 98 percent—*

(A) *a signed statement prepared by the individual serving as director of the regional office as of the date of the submittal of the report containing—*

(i) *an explanation for why the regional office did not meet the goal;*

(ii) *a description of the additional resources needed to enable the regional office to reach the goal; and*

(iii) *a description of any additional actions planned for the subsequent fiscal year that are proposed to enable the regional office to meet the goal; and*

(B) *a statement prepared by the Under Secretary for Benefits explaining how the failure of the regional office to meet the goal affected the performance evaluation of the director of the regional office.*

(3) *With respect to the information required by subsection (a)(3)—*

(A) *the number of requests described in such paragraph made during the fiscal year covered by the report; and*

(B) the average response time for such requests made during each month of such fiscal year, as determined based on the period beginning on the date on which the Secretary made the request and ending on the date on which the Secretary determines that the request is completed.

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SUBCHAPTER III—PAYMENT OF BENEFITS

\* \* \* \* \*

**§ 5127. Bifurcated payments of compensation benefits**

(a) *IN GENERAL.*—During the eight-year period beginning on the date of the enactment of this section, in the case of a claim described in subsection (b), prior to adjudicating the claim, the Secretary shall make payments of monetary benefits to the claimant based on any disability for which the Secretary has made a decision. Upon the adjudication of the claim, the Secretary shall pay to the claimant any monetary benefits awarded to the claimant for the period of payment under section 5111 of this title less the amount of such benefits paid to the claimant under this section.

(b) *CLAIM DESCRIBED.*—A claim described in this subsection is a claim for disability compensation under chapter 11 of this title—

(1) the adjudication of which requires the Secretary to make decisions with respect to two or more disabilities; and

(2) for which, before completing the adjudication of the claim, the Secretary makes a decision with respect to a disability that would result in the payment of monetary benefits to the claimant upon the adjudication of the claim.

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**CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS**

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**§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans**

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

\* \* \* \* \*

(7) This subsection expires on [November 30, 2016] *September 30, 2018.*

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**VETERANS BENEFITS ACT OF 2003**

\* \* \* \* \*

**TITLE VII—OTHER MATTERS**

\* \* \* \* \*

**SEC. 704. TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS.**

(a) \* \* \*

\* \* \* \* \*

(c) EXPIRATION.—The authority in subsection (a) shall expire on **December 31, 2013** *December 31, 2016*. No examination may be carried out under the authority provided in that subsection after that date.

(d) LICENSURE OF CONTRACT PHYSICIANS.—

(1) *IN GENERAL.*—Notwithstanding any law regarding the licensure of physicians, a physician described in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (b) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

(2) *PHYSICIAN DESCRIBED.*—A physician described in this paragraph is a physician who—

(A) has a current license to practice the health care profession of the physician; and

(B) is performing authorized duties for the Department of Veterans Affairs pursuant to a contract entered into under subsection (b).

**[(d)]** (e) REPORT.—Not later than four years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the use of the authority provided in subsection (a). The Secretary shall include in the report an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary.

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**SECTION 504 OF THE VETERANS' BENEFITS IMPROVEMENT ACT OF 1996**

**SEC. 504. PILOT PROGRAM FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS.**

(a) \* \* \*

**[(b)]** LIMITATION.—The Secretary may carry out the pilot program under this section through not more than 10 regional offices of the Department of Veterans Affairs.

(b) LOCATIONS.—

(1) *NUMBER.*—The Secretary may carry out the pilot program under this section through not more than 15 regional offices of the Department of Veterans Affairs.

(2) *SELECTION.*—The Secretary shall select the regional offices under paragraph (1) by analyzing appropriate data to determine the regional offices that require support. Such appropriate data shall include—

(A) the number of backlogged claims;

(B) the total pending case workload;

(C) the length of time cases have been pending;

(D) the accuracy of completed cases;

(E) the overall timeliness of completed cases;

(F) the availability and workload of the examination units and physicians of the medical centers in the regional office; and

(G) any other data the Secretary determines appropriate.

(3) ANNUAL ANALYSIS.—The Secretary shall carry out the data analysis of the regional offices under paragraph (2) during each year in which the program under this section is carried out to determine the regional offices selected under paragraph (1) for such year.

(c) LICENSURE OF CONTRACT PHYSICIANS.—

(1) IN GENERAL.—Notwithstanding any law regarding the licensure of physicians, a physician described in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (a) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

(2) PHYSICIAN DESCRIBED.—A physician described in this paragraph is a physician who—

(A) has a current license to practice the health care profession of the physician; and

(B) is performing authorized duties for the Department of Veterans Affairs pursuant to a contract entered into under subsection (a).

[(c)] (d) SOURCE OF FUNDS.—Payments for contracts under the pilot program under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of compensation and pensions.

[(d)] (e) REPORT TO CONGRESS.—Not later than three years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the effect of the use of the authority provided by subsection (a) on the cost, timeliness, and thoroughness of medical disability examinations.

**TITLE 36, UNITED STATES CODE**

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**SUBTITLE I—PATRIOTIC AND NATIONAL OBSERVANCES AND CEREMONIES**

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**PART A—OBSERVANCES AND CEREMONIES**

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**CHAPTER 1—PATRIOTIC AND NATIONAL OBSERVANCES**

Sec.

101. American Heart Month.

\* \* \* \* \*

145. Veterans Day.

\* \* \* \* \*

**§ 145. Veterans Day**

*The President shall issue each year a proclamation calling on the people of the United States to observe two minutes of silence on Veterans Day in honor of the service and sacrifice of veterans throughout the history of the Nation, beginning at—*

- (1) 3:11 p.m. Atlantic standard time;*
- (2) 2:11 p.m. eastern standard time;*
- (3) 1:11 p.m. central standard time;*
- (4) 12:11 p.m. mountain standard time;*
- (5) 11:11 a.m. Pacific standard time;*
- (6) 10:11 a.m. Alaska standard time; and*
- (7) 9:11 a.m. Hawaii-Aleutian standard time.*

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