

# Union Calendar No. 171

113TH CONGRESS  
1ST SESSION

# H. R. 2189

**[Report No. 113-236]**

To establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. MILLER of Florida (for himself and Mr. MCCARTHY of California) introduced the following bill; which was referred to the Committee on Veterans' Affairs

SEPTEMBER 27, 2013

Additional sponsors: Mr. NUGENT, Ms. SINEMA, Mrs. WALORSKI, Mr. TURNER, Mr. MCINTYRE, Mr. MEADOWS, Mr. JONES, and Mr. ISSA

SEPTEMBER 27, 2013

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 23, 2013]

# **A BILL**

To establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 *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 De-*  
*partment of Veterans Affairs.*

*Sec. 102. Supplemental reports to the Strategic Plan to Eliminate the Compensa-*  
*tion 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 Sec-*  
*retary 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 ex-*  
*aminations 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 pen-*  
*sion.*

*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 fur-*  
*nished 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.*

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

6 *The budgetary effects of this Act, for the purpose of*  
 7 *complying with the Statutory Pay-As-You-Go Act of 2010,*

1 *shall be determined by reference to the latest statement titled*  
2 *“Budgetary Effects of PAYGO Legislation” for this Act,*  
3 *submitted for printing in the Congressional Record by the*  
4 *Chairman of the House Budget Committee, provided that*  
5 *such statement has been submitted prior to the vote on pas-*  
6 *sage.*

7           **TITLE I—IMPROVEMENT OF**  
8                           **CLAIMS PROCESSING**

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

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

16           *(b) STUDIES.—*

17                   *(1) BACKLOG STUDY.—*

18                           *(A) IN GENERAL.—The Commission or Task*  
19 *Force, acting through the subcommittee described*  
20 *in subsection (d)(2)(A), shall carry out a study*  
21 *on the backlog of claims, including the current*  
22 *process the Secretary of Veterans Affairs uses to*  
23 *evaluate claims and appeals and the laws and*  
24 *regulations applicable to such claims and ap-*  
25 *peals. Such study shall be a comprehensive eval-*

1            *uation and assessment of the backlog of claims,*  
2            *an analysis of possible improvements to the pro-*  
3            *cedures used to process such claims, and any re-*  
4            *lated issues that the Commission or Task Force*  
5            *considers relevant.*

6            *(B) MATTERS INCLUDED.—In carrying out*  
7            *the study under subparagraph (A), the Commis-*  
8            *sion or Task Force shall examine the following:*

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

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

15                            *(II) with respect to the Depart-*  
16                            *ment, the annual funding, number of*  
17                            *full-time employees, workload manage-*  
18                            *ment practices, and the progress, as of*  
19                            *the date of the study, of the strategic*  
20                            *plan.*

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

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

4                    (I) *options that make no major*  
5                    *substantive changes to the claims proc-*  
6                    *ess;*

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

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

11                   (2) *APPEALS PROCESS STUDY.—*

12                    (A) *IN GENERAL.—The Commission or Task*  
13                    *Force, acting through the subcommittee described*  
14                    *in subsection (d)(2)(B), shall carry out a study*  
15                    *on the anticipated increase of appeals of claims,*  
16                    *including the current appeals process and the*  
17                    *laws and regulations applicable to such appeals.*  
18                    *Such study shall be a comprehensive evaluation*  
19                    *and assessment of such anticipated increase of*  
20                    *appeals claims, an analysis of possible improve-*  
21                    *ments to the procedures used to process such ap-*  
22                    *peals, and any related issues that the Commis-*  
23                    *sion or Task Force considers relevant.*

1           (B) *MATTERS INCLUDED.*—*In carrying out*  
2 *the study under subparagraph (A), the Commis-*  
3 *sion or Task Force shall examine the following:*

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

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

9           (II) *with respect to both the*  
10 *Board and the Court of Appeals for*  
11 *Veterans Claims, the annual funding,*  
12 *number of full-time employees, work-*  
13 *load management practices, and the*  
14 *progress, as of the date of the study, of*  
15 *the strategic plan; and*

16           (III) *the efficiency, effectiveness,*  
17 *and utility of the Veterans Benefits*  
18 *Management System with respect to*  
19 *appeals operations, including an iden-*  
20 *tification of key changes that may need*  
21 *to be implemented to such system.*

22           (ii) *Possible improvements to the ap-*  
23 *peals process, including an evaluation and*  
24 *recommendations with respect to whether*

1           *substantive and structural changes to the*  
2           *overall appeals process are required.*

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

6                     *(I) options that make no major*  
7                     *substantive changes to the appeals*  
8                     *process;*

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

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

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

20                    *(V) the role of the Board and the*  
21                    *Appeals Management Center, includ-*  
22                    *ing—*

23                             *(aa) the effectiveness of the*  
24                             *workload management of the*  
25                             *Board and the Center;*



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

5                    *(cc) whether Board members*  
6                    *should be required to pass the ad-*  
7                    *ministrative law judges certifi-*  
8                    *cation examination; and*

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

12                   *(VI) the role of the Court of Ap-*  
13                   *peals for Veterans Claims and the*  
14                   *United States Court of Appeals for the*  
15                   *Federal Circuit, including—*

16                   *(aa) the continued effective-*  
17                   *ness and necessity of a multi-*  
18                   *tiered structure of judicial review;*

19                   *(bb) whether the Court of Ap-*  
20                   *peals for Veterans Claims should*  
21                   *have Article I or Article III sta-*  
22                   *tus;*

23                   *(cc) expansion of either the*  
24                   *Court of Appeals for Veterans*  
25                   *Claims or the United States Court*

1 *of Appeals for the Federal Circuit*  
2 *jurisdiction, including by allow-*  
3 *ing such courts to hear class ac-*  
4 *tion lawsuits with respect to*  
5 *claims; and*

6 *(dd) the possibility of ex-*  
7 *panding judicial review of claims*  
8 *to all Federal circuit courts of ap-*  
9 *peals or allowing judicial review*  
10 *beyond the Court of Appeals for*  
11 *Veterans Claims only by the Su-*  
12 *preme Court.*

13 *(3) CONSIDERATION.—In carrying out the stud-*  
14 *ies under paragraph (1)(A) and (2)(A) and making*  
15 *any recommendations under this section, the Commis-*  
16 *sion or Task Force shall consider the following:*

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

20 *(B) The values and requirements of the*  
21 *Constitution, including with respect to compli-*  
22 *ance with procedural and substantive due proc-*  
23 *ess.*

24 *(C) The public interest, including with re-*  
25 *spect to the responsible use of available resources.*

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

5           (E) *With respect to the study conducted*  
6           *under paragraph (2)(A), the importance of an*  
7           *appeals process that is efficient and easily un-*  
8           *derstandable by a claimant.*

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

11           (A) *INFORMATION.—In carrying out each*  
12           *study under paragraph (1)(A) and (2)(A), at*  
13           *times that the Commission or Task Force deter-*  
14           *mines appropriate, the Commission or Task*  
15           *Force shall submit to the Secretary of Veterans*  
16           *Affairs, the Chairman of the Board, and the*  
17           *Chief Judge of the Court of Appeals for Veterans*  
18           *Claims, as the case may be, information with re-*  
19           *spect to remedies and solutions that the Commis-*  
20           *sion or Task Force identifies pursuant to such a*  
21           *study.*

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

1           (i) *fully consider the remedies and so-*  
2           *lutions submitted to the Secretary, the*  
3           *Chairman, or the Chief Judge, as the case*  
4           *may be, under subparagraph (A);*

5           (ii) *implement such remedies and solu-*  
6           *tions as the Secretary, the Chairman, or the*  
7           *Chief Judge, respectively, determines appro-*  
8           *priate; and*

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

12          (C) *PLAN.—The Commission or Task Force*  
13          *shall submit to the Secretary, the Chairman of*  
14          *the Board, and the Chief Judge a feasible, time-*  
15          *ly, and cost-effective plan to eliminate the back-*  
16          *log of appeals of claims based on the remedies*  
17          *and solutions identified pursuant to the study*  
18          *under paragraph (2)(A) and the information*  
19          *submitted under subparagraph (A).*

20          (c) *COMPREHENSIVE REPORTS.—*

21               (1) *INITIAL COMPREHENSIVE REPORT.—Not later*  
22               *than 60 days after the date on which the Commission*  
23               *or Task Force first meets, the Commission or Task*  
24               *Force shall submit to the President and Congress an*  
25               *initial comprehensive report on the studies conducted*

1 under paragraphs (1)(A) and (2)(A) of subsection (b),  
2 including—

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

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

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

11 (2) *INTERIM COMPREHENSIVE REPORTS.*—Not  
12 later than 90 days after the date on which the Com-  
13 mission or Task Force first meets, and each 30-day  
14 period thereafter ending on the date on which the  
15 Commission or Task Force submits the final com-  
16 prehensive report under paragraph (3), the Commis-  
17 sion or Task Force shall submit to the President and  
18 Congress a comprehensive report on—

19 (A) the progress of the Secretary with re-  
20 spect to implementing solutions to expedite the  
21 elimination of the backlog of claims pursuant to  
22 subsection (b)(4)(B)(ii);

23 (B) the progress of the Secretary, the Chair-  
24 man of the Board, and the Chief Judge of the  
25 Court of Appeals for Veterans Claims with re-

1           *spect to implementing solutions to complete ap-*  
2           *peals of claims in a timely manner in a timely*  
3           *manner pursuant to such subsection; and*

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

8           *(3) FINAL COMPREHENSIVE REPORT.—Not later*  
9           *than 180 days after the date on which the Commis-*  
10          *sion or Task Force first meets, the Commission or*  
11          *Task Force shall submit to the President and Con-*  
12          *gress a comprehensive report on the following:*

13           *(A) With respect to the study conducted*  
14           *under subsection (b)(1)(A)—*

15           *(i) The findings, conclusions, and rec-*  
16           *ommendations of the Commission or Task*  
17           *Force with respect to the matters referred to*  
18           *in such subsection.*

19           *(ii) The recommendations of the Com-*  
20           *mission or Task Force for revising and im-*  
21           *proving the backlog of claims and the proce-*  
22           *dures used to process claims.*

23           *(iii) The progress of the Secretary with*  
24           *respect to implementing solutions to expe-*

1           dite the elimination of the backlog of claims  
2           pursuant to subsection (b)(4)(B)(ii).

3           (iv) Other information and rec-  
4           ommendations with respect to claims as the  
5           Commission or Task Force considers appro-  
6           priate.

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

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

13          (ii) The recommendations of the Com-  
14          mission or Task Force for revising and im-  
15          proving the appeals process;

16          (iii) The information described in sub-  
17          section (b)(4)(A).

18          (iv) The feasible, timely, and cost effec-  
19          tive plan described in subsection (b)(4)(C).

20          (v) The progress of the Secretary, the  
21          Chairman of the Board, and the Chief  
22          Judge of the Court of Appeals for Veterans  
23          Claims with respect to implementing solu-  
24          tions to provide timely appeals of claims.

1                   (vi) *Other information and rec-*  
2                   *ommendations with respect to the appeals*  
3                   *process as the Commission or Task Force*  
4                   *considers appropriate.*

5           (d) *MEMBERSHIP.—*

6                   (1) *NUMBER AND APPOINTMENT.—The Commis-*  
7                   *sion or Task Force shall be composed of 15 members,*  
8                   *appointed as follows:*

9                           (A) *Two members appointed by the Speaker*  
10                   *of the House of Representatives, one of whom*  
11                   *shall be designated to serve upon the Sub-*  
12                   *committee on the Backlog of Claims and one of*  
13                   *whom shall be designated to serve upon the Sub-*  
14                   *committee on Appeals.*

15                           (B) *Two members appointed by the minor-*  
16                   *ity leader of the House of Representatives, one of*  
17                   *whom shall be designated to serve upon the Sub-*  
18                   *committee on the Backlog of Claims and one of*  
19                   *whom shall be designated to serve upon the Sub-*  
20                   *committee on Appeals.*

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



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

3           *(D) Two members appointed by the minor-*  
4           *ity leader of the Senate, one of whom shall be*  
5           *designated to serve upon the Subcommittee on*  
6           *the Backlog of Claims and one of whom shall be*  
7           *designated to serve upon the Subcommittee on*  
8           *Appeals.*

9           *(E) Three members appointed by the Presi-*  
10          *dent, two of whom shall be designated to serve*  
11          *upon the Subcommittee on the Backlog of Claims*  
12          *and one of whom shall be designated to serve*  
13          *upon the Subcommittee on Appeals.*

14          *(F) One member appointed by the Secretary*  
15          *of Defense, whom shall be designated to serve*  
16          *upon the Subcommittee on the Backlog of*  
17          *Claims.*

18          *(G) Two members appointed by the Sec-*  
19          *retary of Veterans Affairs, one of whom shall be*  
20          *designated to serve upon the Subcommittee on*  
21          *the Backlog of Claims and one of whom shall be*  
22          *designated to serve upon the Subcommittee on*  
23          *Appeals.*

24          *(H) One member appointed by the Chief*  
25          *Judge of the Court of Appeals for Veterans*

1           *Claims, whom shall be designated to serve upon*  
2           *the Subcommittee on Appeals.*

3           (2) *SUBCOMMITTEES.—The Commission or Task*  
4           *Force shall have two subcommittees as follows:*

5                   (A) *A Subcommittee on the Backlog of*  
6                   *Claims consisting of the eight members des-*  
7                   *ignated in accordance with paragraph (1).*

8                   (B) *A Subcommittee on Appeals consisting*  
9                   *of the seven members designated in accordance*  
10                  *with paragraph (1).*

11           (3) *QUALIFICATIONS.—Each member appointed*  
12           *under paragraph (1) shall be appointed based on the*  
13           *experience of the member as a veteran or on the sub-*  
14           *ject matter expertise or other relevant experience of*  
15           *the member.*

16           (4) *ADVISORS.—*

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

20                           (i) *have five nonvoting, nonmember ad-*  
21                           *visors, appointed by a majority of the Com-*  
22                           *mission or Task Force, each from a different*  
23                           *organization that represents the interests of*  
24                           *veterans; and*

1                   (ii) seek advice from experts from non-  
2                   governmental organizations (including vet-  
3                   erans service organizations and military or-  
4                   ganizations), the Internet technology indus-  
5                   try, and the insurance industry.

6                   (B) *ADVICE.*—Individuals described in  
7                   clause (i) and (ii) of subparagraph (A) shall  
8                   provide advice to both subcommittees described  
9                   in paragraph (2).

10                  (5) *CHAIRMAN.*—The President shall designate a  
11                  member of the Commission or Task Force who is ap-  
12                  pointed by the President and designated to serve upon  
13                  the Subcommittee on the Backlog of Claims to serve  
14                  as the chairman of the Commission or Task Force.  
15                  The chairman may designate a member to serve as  
16                  the chairman of the Subcommittee on the Backlog of  
17                  Claims and a member to serve as the chairman of the  
18                  Subcommittee on Appeals to chair such subcommittees  
19                  as the designee of the chairman of the Commission or  
20                  Task Force.

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

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

4           (8) *APPOINTMENT DEADLINE.*—*The appointment*  
5           *of members of the Commission or Task Force estab-*  
6           *lished in this section shall be made not later than 15*  
7           *days after the date of the enactment of this Act.*

8           (e) *MEETINGS.*—

9           (1) *INITIAL MEETING.*—*The Commission or Task*  
10          *Force shall hold its first meeting not later than 15*  
11          *days after the date on which a majority of the mem-*  
12          *bers are appointed.*

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

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

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

19          (1) *HEARINGS.*—*The Commission or Task Force*  
20          *may hold such hearings, sit and act at such times*  
21          *and places, take such testimony, and receive such evi-*  
22          *dence as the Commission or Task Force considers ad-*  
23          *visable to carry out the purposes of this section.*

24          (2) *INFORMATION FROM FEDERAL AGENCIES.*—  
25          *The Commission or Task Force may secure directly*

1       *from any department or agency of the Federal Gov-*  
2       *ernment such information as the Commission or Task*  
3       *Force considers necessary to carry out the provisions*  
4       *of this section. Upon request of the chairman, the*  
5       *head of such department or agency shall furnish such*  
6       *information to the Commission or Task Force.*

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

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

14              (g) *PERSONNEL MATTERS.—*

15              (1) *COMPENSATION OF MEMBERS.—Each mem-*  
16       *ber of the Commission or Task Force who is not an*  
17       *officer or employee of the United States shall be com-*  
18       *pensated at a rate equal to the daily equivalent of the*  
19       *annual rate of basic pay prescribed for level IV of the*  
20       *Executive Schedule under section 5315 of title 5,*  
21       *United States Code, for each day (including travel*  
22       *time) during which the member is engaged in the per-*  
23       *formance of the duties of the Commission or Task*  
24       *Force. All members of the Commission or Task Force*  
25       *who are officers or employees of the United States*

1       *shall serve without compensation in addition to that*  
2       *received for their services as officers or employees of*  
3       *the United States.*

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

12               (3) *STAFF.*—

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

21                       (B) *COMPENSATION.*—*The chairman of the*  
22       *Commission or Task Force may fix the com-*  
23       *ensation of the executive director and other per-*  
24       *sonnel without regard to the provisions of chap-*  
25       *ter 51 and subchapter III of chapter 53 of title*

1           5, *United States Code*, relating to classification  
2           of positions and *General Schedule* pay rates, ex-  
3           cept that the rate of pay for the executive direc-  
4           tor and other personnel may not exceed the rate  
5           payable for level V of the *Executive Schedule*  
6           under section 5316 of such title.

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

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

22          (h) *TERMINATION OF COMMISSION OR TASK FORCE.*—  
23          The Commission or Task Force shall terminate 60 days  
24          after the date on which the Commission or Task Force sub-  
25          mits the final comprehensive report under subsection (c)(3).

1       (i) *FUNDING.*—

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

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

12       (j) *DEFINITIONS.*—*In this section:*

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

20               (2) *The term “Board” means the Board of Vet-*  
21 *erans’ Appeals.*

22               (3) *The term “strategic plan” means the Stra-*  
23 *tegic Plan to Eliminate the Compensation Claims*  
24 *Backlog, published by the Secretary of Veterans Af-*  
25 *airs on January 25, 2013.*



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

4 *Not later than 60 days after the date of the enactment*  
5 *of this Act, and every 120 days thereafter until Memorial*  
6 *Day (May 25), 2015, the Secretary of Veterans Affairs shall*  
7 *submit to Congress a supplemental report on the implemen-*  
8 *tation by the Department of Veterans Affairs of the Stra-*  
9 *tegic Plan to Eliminate the Compensation Claims Backlog.*  
10 *Each such report shall include—*

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

16 *(2) a description of the specific measures, proce-*  
17 *dures, and metrics used to assess the implementation*  
18 *of the Strategic Plan for purposes of the supplemental*  
19 *report; and*

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

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

24 *(a) SSA RECORDS.—Not later than 60 days after the*  
25 *date of the enactment of this Act, the Secretary of Veterans*  
26 *Affairs shall enter into an agreement with the Commis-*

1 *sioner of the Social Security Administration to ensure that*  
2 *the Commissioner transfers to the Secretary disability or*  
3 *medical records of the Commissioner that the Secretary will*  
4 *use to evaluate a claim by not later than 30 days after the*  
5 *Secretary requests such records.*

6       *(b) DOD RECORDS.—Not later than 60 days after the*  
7 *date of the enactment of this Act, the Secretary of Veterans*  
8 *Affairs shall enter into an agreement with the Secretary*  
9 *of Defense to ensure that the Secretary of Defense transfers*  
10 *to the Secretary of Veterans Affairs medical records of mem-*  
11 *bers or former members of the Armed Forces that the Sec-*  
12 *retary will use to evaluate a claim by not later than 30*  
13 *days after the Secretary requests such records.*

14       *(c) NATIONAL GUARD RECORDS.—Not later than 60*  
15 *days after the date of the enactment of this Act, the Sec-*  
16 *retary of Veterans Affairs and the Secretary of Defense shall*  
17 *jointly—*

18               *(1) submit to Congress a plan to reduce to 30*  
19 *days the amount of time needed to provide members*  
20 *of the National Guard and the Secretary of Veterans*  
21 *Affairs with the medical records of such members, in-*  
22 *cluding by partnering with appropriate officials of*  
23 *Federal or State departments or agencies; and*

24               *(2) implement such plan.*

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

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

5           (a) *ESTABLISHMENT.*—*The Secretary of Veterans Af-*  
6 *fairs shall establish a training program to provide newly*  
7 *hired claims processors of the Department of Veterans Af-*  
8 *fairs with training for a period of not less than two years.*  
9 *In carrying out such program, the Secretary shall identify*  
10 *successful claims processors of the Department who can as-*  
11 *sist in the training of newly hired claims processors.*

12           (b) *ABILITY TO PROCESS CLAIMS.*—*The Secretary*  
13 *shall carry out the training program established under sub-*  
14 *section (a) without increasing the amount of time in which*  
15 *claims are processed by the Department.*

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

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

21           *Not later than one year after the date of the enactment*  
22 *of this Act, the Comptroller General of the United States*  
23 *shall submit to Congress a report on the progress of the Sec-*  
24 *retary of Veterans Affairs in improving the timeliness of*  
25 *claims processing and eliminating the backlog of claims.*

1 *The report shall include any recommendations of the Comp-*  
 2 *troller General with respect to improving the ability of the*  
 3 *Secretary to make such progress.*

4 **SEC. 106. PRIORITY FOR PROCESSING CLAIMS OF THE DE-**  
 5 **PARTMENT OF VETERANS AFFAIRS.**

6 *(a) IN GENERAL.—Subchapter I of chapter 51 of title*  
 7 *38, United States Code, is amended by adding at the end*  
 8 *the following new section:*

9 **“§ 5109C. Priority for processing claims**

10 *“(a) PRIORITY.—In processing claims for compensa-*  
 11 *tion under this chapter, the Secretary shall provide the fol-*  
 12 *lowing claimants with priority over other claimants:*

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

14 *“(2) Veterans who are terminally ill.*

15 *“(3) Veterans with life-threatening illnesses.*

16 *“(4) Homeless veterans (as defined in section*  
 17 *2002 of this title).*

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

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

21 *“(7) Veterans whose claims are being reviewed*  
 22 *again in relation to a previously denied claim relat-*  
 23 *ing to military sexual trauma.*



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

3           “(1) *For each regional office and for the Depart-*  
4 *ment as a whole—*

5                   “(A) *the average number of days between*  
6 *the date of the submittal of a claim and the date*  
7 *of the decision with respect to the claim for each*  
8 *of the preceding three-month and one-year pe-*  
9 *riod;*

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

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

16                   “(D) *the number of claims pending;*

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

19                   “(F) *the number of claims completed dur-*  
20 *ing—*

21                           “(i) *the current month, to date;*

22                           “(ii) *the month preceding the current*  
23 *month;*

24                           “(iii) *the current calendar year, to*  
25 *date; and*

1                   “(iv) the calendar year preceding the  
2                   current calendar year.

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

6                   “(A) the average number of days between  
7                   the date of the submittal of a claim relating to  
8                   such medical condition and the date of the deci-  
9                   sion with respect to the claim for each of the pre-  
10                  ceding three-month and one-year period;

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

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

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

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

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

25                  “(i) the current month, to date;

1                   “(ii) the month preceding current  
2                   month;

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

5                   “(iv) the calendar year preceding the  
6                   current calendar year.

7           “(b) *UPDATES.*—*The Secretary shall update the infor-*  
8 *mation on the website under subsection (a) not less fre-*  
9 *quently than once every seven days.”.*

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

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

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

15       “(a) *IN GENERAL.*—*Subchapter I of chapter 51 of title*  
16 *38, United States Code, is amended by adding after section*  
17 *5109D, as added by section 107, the following new section:*

18   **“§ 5109E. Annual report on processing of claims**

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

22                   “(1) *The automatic processing of claims for com-*  
23 *ensation.*

24                   “(2) *The performance of any regional office that*  
25 *fails to meet the administrative goals of the regional*



1       *office with respect to timeliness and accuracy in proc-*  
2       *essing claims for compensation.*

3               “(3) *The timeliness of receiving information pur-*  
4       *suant to a request by the Secretary to the head of an-*  
5       *other department or agency of the United States for*  
6       *information required by the Secretary in adjudi-*  
7       *cating a claim for compensation under chapter 11 of*  
8       *this title.*

9               “(b) *MATTERS INCLUDED.—In carrying out subsection*  
10      *(a) to include information in the report required under sec-*  
11      *tion 529 of this title, the Secretary shall include the fol-*  
12      *lowing:*

13               “(1) *With respect to the information required by*  
14      *subsection (a)(1)—*

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

19               “(B) *the feasibility of processing any addi-*  
20      *tional medical conditions in an electronic auto-*  
21      *mated fashion and any barriers to such proc-*  
22      *essing, including any such barriers relating to*  
23      *the schedule for rating disabilities under section*  
24      *1155 of this title;*

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

4           “(D) for each medical condition, the per-  
5 centage of claims denied and the percentage of  
6 claims approved during such fiscal year.

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

13           “(A) a signed statement prepared by the in-  
14 dividual serving as director of the regional office  
15 as of the date of the submittal of the report con-  
16 taining—

17           “(i) an explanation for why the re-  
18 gional office did not meet the goal;

19           “(ii) a description of the additional re-  
20 sources needed to enable the regional office  
21 to reach the goal; and

22           “(iii) a description of any additional  
23 actions planned for the subsequent fiscal  
24 year that are proposed to enable the re-  
25 gional office to meet the goal; and

1           “(B) a statement prepared by the Under  
2           Secretary for Benefits explaining how the failure  
3           of the regional office to meet the goal affected the  
4           performance evaluation of the director of the re-  
5           gional office.

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

8                   “(A) the number of requests described in  
9                   such paragraph made during the fiscal year cov-  
10                  ered by the report; and

11                   “(B) the average response time for such re-  
12                  quests made during each month of such fiscal  
13                  year, as determined based on the period begin-  
14                  ning on the date on which the Secretary made  
15                  the request and ending on the date on which the  
16                  Secretary determines that the request is com-  
17                  pleted.”.

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

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

22           (c) *EFFECTIVE DATE.*—Section 5109E of title 38,  
23           United States Code, as added by subsection (a) shall take  
24           effect on the date that is one year after the date of the enact-  
25           ment of this Act.

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

4 (a) *PUBLIC NOTICE.*—*The Secretary of Veterans Af-*  
5 *fairs shall post the information described in subsection*

6 (c)—

7 (1) *in a conspicuous place in each regional office*  
8 *and claims intake facilities of the Department of Vet-*  
9 *erans Affairs; and*

10 (2) *on the Internet website of the Department.*

11 (b) *NOTICE TO APPLICANTS.*—

12 (1) *IN GENERAL.*—*The Secretary shall provide to*  
13 *each person who submits a claim for benefits under*  
14 *the laws administered by the Secretary before the per-*  
15 *son submits such claim—*

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

18 (B) *notice that, during the period ending on*  
19 *August 6, 2015, the person is eligible to receive*  
20 *up to an extra year of benefits payments if the*  
21 *person files an original claim that is fully devel-*  
22 *oped.*

23 (2) *ACKNOWLEDGMENT OF RECEIPT OF NO-*  
24 *TICE.*—*Each person who submits a claim for benefits*  
25 *under the laws administered by the Secretary shall*  
26 *include in such application a signed form acknowl-*

1        *edging that the person received the information de-*  
2        *scribed in subsection (c).*

3        *(c) INFORMATION DESCRIBED.—*

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

6                        *(A) The average processing time of the*  
7        *claims described in paragraph (2) and the per-*  
8        *centage of such submitted claims for which bene-*  
9        *fits are awarded.*

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

14                                *(i) Claims filed by veterans who au-*  
15        *thorized a veterans service organization to*  
16        *act on the veterans' behalf under a durable*  
17        *power of attorney.*

18                                *(ii) Claims filed by veterans who au-*  
19        *thorized a person other than a veterans*  
20        *service organization to act on the veterans'*  
21        *behalf under a durable power of attorney.*

22                                *(iii) Claims filed by veterans who did*  
23        *not authorize a person to act on the vet-*  
24        *erans' behalf under a durable power of at-*  
25        *torney.*

1           (2) *CLAIMS DESCRIBED.*—*The claims described*  
2           *in this paragraph are each of the following types of*  
3           *claims for benefits under the laws administered by the*  
4           *Secretary of Veterans Affairs:*

5                   (A) *A fully developed claim that is sub-*  
6                   *mitted in standard electronic form.*

7                   (B) *A fully developed claim that is sub-*  
8                   *mitted in standard paper form.*

9                   (C) *A claim that is not fully developed that*  
10                  *is submitted in standard electronic form.*

11                  (D) *A claim that is not fully developed that*  
12                  *is submitted in standard paper form.*

13                  (E) *A claim that is not fully developed that*  
14                  *is submitted in nonstandard paper form.*

15           (3) *UPDATE OF INFORMATION.*—*The information*  
16           *described in this subsection shall be updated not less*  
17           *frequently than once each fiscal quarter.*

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

21 **SEC. 110. CLAIM DEFINED.**

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

1     **TITLE II—COMPENSATION AND**  
2                     **PENSIONS**

3     **SEC. 201. IMPROVEMENTS TO AUTHORITY FOR PERFORM-**  
4                     **ANCE OF MEDICAL DISABILITIES EXAMINA-**  
5                     **TIONS BY CONTRACT PHYSICIANS.**

6             *(a) EXTENSION OF TEMPORARY AUTHORITY.—Sub-*  
7     *section (c) of section 704 of the Veterans Benefits Act of*  
8     *2003 (38 U.S.C. 5101 note) is amended by striking “Decem-*  
9     *ber 31, 2013” and inserting “December 31, 2016”.*

10            *(b) LICENSURE OF CONTRACT PHYSICIANS.—*

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

13                     *(A) by redesignating subsection (d) as sub-*  
14     *section (e); and*

15                     *(B) by inserting after subsection (c) the fol-*  
16     *lowing new subsection (d):*

17            *“(d) LICENSURE OF CONTRACT PHYSICIANS.—*

18                 *“(1) IN GENERAL.—Notwithstanding any law re-*  
19     *garding the licensure of physicians, a physician de-*  
20     *scribed in paragraph (2) may conduct an examina-*  
21     *tion pursuant to a contract entered into under sub-*  
22     *section (b) at any location in any State, the District*  
23     *of Columbia, or a Commonwealth, territory, or posses-*  
24     *sion of the United States, so long as the examination*

1 *is within the scope of the authorized duties under*  
2 *such contract.*

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

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

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

10 (2) *PILOT PROGRAM.*—*Section 504 of the Vet-*  
11 *erans’ Benefits Improvement Act of 1996 (38 U.S.C.*  
12 *5101 note) is amended—*

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

15 (B) *by inserting after subsection (b) the fol-*  
16 *lowing new subsection (c):*

17 “(c) *LICENSURE OF CONTRACT PHYSICIANS.*—

18 “(1) *IN GENERAL.*—*Notwithstanding any law re-*  
19 *garding the licensure of physicians, a physician de-*  
20 *scribed in paragraph (2) may conduct an examina-*  
21 *tion pursuant to a contract entered into under sub-*  
22 *section (a) at any location in any State, the District*  
23 *of Columbia, or a Commonwealth, territory, or posses-*  
24 *sion of the United States, so long as the examination*



1        *is within the scope of the authorized duties under*  
2        *such contract.*

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

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

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

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

12        “(b) *LOCATIONS.*—

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

17            “(2) *SELECTION.*—*The Secretary shall select the*  
18 *regional offices under paragraph (1) by analyzing ap-*  
19 *propriate data to determine the regional offices that*  
20 *require support. Such appropriate data shall in-*  
21 *clude—*

22            “(A) *the number of backlogged claims;*

23            “(B) *the total pending case workload;*

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

1           “(D) the accuracy of completed cases;

2           “(E) the overall timeliness of completed  
3 cases;

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

7           “(G) any other data the Secretary deter-  
8 mines appropriate.

9           “(3) ANNUAL ANALYSIS.—The Secretary shall  
10 carry out the data analysis of the regional offices  
11 under paragraph (2) during each year in which the  
12 program under this section is carried out to deter-  
13 mine the regional offices selected under paragraph (1)  
14 for such year.”.

15          (d) EFFECTIVE DATE.—This section and the amend-  
16 ment made by this section shall take effect on the date that  
17 is one year after the date of the enactment of this Act.

18 **SEC. 202. CONSIDERATION BY SECRETARY OF VETERANS**  
19 **AFFAIRS OF RESOURCES DISPOSED OF FOR**  
20 **LESS THAN FAIR MARKET VALUE BY INDIVID-**  
21 **UALS APPLYING FOR PENSION.**

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

24                 (1) in subsection (a)—

1           (A) by inserting “(1)” before “The Sec-  
2           retary”; and

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

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

15          “(B)(i) For purposes of this paragraph, a covered re-  
16          source is any resource that was a part of the corpus of the  
17          estate of the veteran or, if the veteran has a spouse, the cor-  
18          pus of the estates of the veteran and of the veteran’s spouse,  
19          that the Secretary considers that under all the cir-  
20          cumstances, if the veteran or spouse had not disposed of  
21          such resource, it would be reasonable that the resource (or  
22          some portion of the resource) be consumed for the veteran’s  
23          maintenance.

24          “(ii) For purposes of this paragraph, the Secretary  
25          may consider, in accordance with regulations the Secretary

1 shall prescribe, a transfer of an asset (including a transfer  
2 of an asset to an annuity, trust, or other financial instru-  
3 ment or investment) a disposal of a covered resource for  
4 less than fair market value if such transfer reduces the  
5 amount in the corpus of the estate of the veteran or, if the  
6 veteran has a spouse, the corpus of the estates of the veteran  
7 and of the veteran's spouse, that the Secretary considers,  
8 under all the circumstances, would be reasonable to be con-  
9 sumed for the veteran's maintenance.

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

13       “(ii) The date described in this clause is the date on  
14 which the veteran applies for pension under section 1513  
15 or 1521 of this title or, if later, the date on which the vet-  
16 eran (or the spouse of the veteran) disposes of covered re-  
17 sources for less than fair market value.

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

23       “(E) The number of months calculated under this sub-  
24 paragraph shall be equal to—

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

8           “(ii) the maximum amount of monthly pension  
9 that is payable to a veteran under section 1513 or  
10 1521 of this title, including the maximum amount of  
11 increased pension payable under such sections on ac-  
12 count of family members, but not including any  
13 amount of pension payable under such sections be-  
14 cause a veteran is in need of regular aid and attend-  
15 ance or is permanently housebound,  
16 rounded, in the case of any fraction, to the nearest whole  
17 number, but shall not in any case exceed 36 months.”;

18           (2) in subsection (b)—

19                   (A) by inserting “(1)” before “The Sec-  
20 retary”; and

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

23           “(2)(A) If a veteran otherwise eligible for payment of  
24 increased pension under subsection (c), (d), (e), or (f) of  
25 section 1521 of this title on account of a child, the spouse

1 *of the veteran, or the child disposes of covered resources for*  
2 *less than fair market value on or after the look-back date*  
3 *described in subparagraph (C)(i), the Secretary shall deny*  
4 *or discontinue payment of such increased pension for*  
5 *months during the period beginning on the date described*  
6 *in subparagraph (D) and equal to the number of months*  
7 *calculated as provided in subparagraph (E).*

8       “(B)(i) *For purposes of this paragraph, a covered re-*  
9 *source is any resource that was a part of the corpus of the*  
10 *estate of the child that the Secretary considers that under*  
11 *all the circumstances, if the veteran, the spouse of the vet-*  
12 *eran, or the child had not disposed of such resource, it would*  
13 *be reasonable that the resource (or some portion of the re-*  
14 *source) be consumed for the child’s maintenance.*

15       “(ii) *For purposes of this paragraph, the Secretary*  
16 *may consider, in accordance with regulations the Secretary*  
17 *shall prescribe, a transfer of an asset (including a transfer*  
18 *of an asset to an annuity, trust, or other financial instru-*  
19 *ment or investment) a disposal of a covered resource for*  
20 *less than fair market value if such transfer reduces the*  
21 *amount in the corpus of the estate of the child that the Sec-*  
22 *retary considers, under all the circumstances, would be rea-*  
23 *sonable to be consumed for the child’s maintenance.*

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

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

10       “(D) *The date described in this subparagraph is the*  
11 *first day of the first month in or after which covered re-*  
12 *sources were disposed of for less than fair market value and*  
13 *which does not occur in any other period of ineligibility*  
14 *under this paragraph.*

15       “(E) *The number of months calculated under this sub-*  
16 *paragraph shall be equal to—*

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

24               “(ii) *the maximum amount of increased monthly*  
25 *pension that is payable to a veteran under subsection*

1       (c), (d), (e), or (f) of section 1521 of this title on ac-  
2       count of a child,

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

5           (3) by adding at the end the following new sub-  
6       sections:

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

14           “(A) a satisfactory showing is made to the Sec-  
15 retary (in accordance with regulations promulgated  
16 by the Secretary) that all resources disposed of for less  
17 than fair market value have been returned to the indi-  
18 vidual who disposed of the resources; or

19           “(B) the Secretary determines, under procedures  
20 established by the Secretary, that the denial or dis-  
21 continuance of payment would work an undue hard-  
22 ship as determined on the basis of criteria established  
23 by the Secretary.

24       “(2) At the time a veteran applies for pension under  
25 section 1513 or 1521 of this title or increased pension under



1 subsection (c), (d), (e), or (f) of section 1521 of this title  
2 on account of a child, and at such other times as the Sec-  
3 retary considers appropriate, the Secretary shall—

4 “(A) inform such veteran of the provisions of  
5 subsections (a)(2) and (b)(2) providing for a period  
6 of ineligibility for payment of pension under such sec-  
7 tions for individuals who make certain dispositions of  
8 resources for less than fair market value; and

9 “(B) obtain from such veteran information  
10 which may be used in determining whether or not a  
11 period of ineligibility for such payments would be re-  
12 quired by reason of such subsections.

13 “(d) Subsections (a)(2) and (b)(2) shall not apply with  
14 respect to the disposal of resources or the transfer of an asset  
15 if such disposal or transfer is to a trust described in section  
16 1917(d)(4) of the Social Security Act (42 U.S.C.  
17 1396p(d)(4)) that is established for the benefit of a child  
18 of the veteran.”.

19 (b) SURVIVING SPOUSES AND CHILDREN.—Section  
20 1543 of such title is amended—

21 (1) in subsection (a)—

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

24 (B) by inserting after paragraph (1) the fol-  
25 lowing new paragraph (2):

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

10       “(B)(i) *For purposes of this paragraph, a covered re-*  
11 *source is any resource that was a part of the corpus of the*  
12 *estate of the surviving spouse that the Secretary considers*  
13 *that under all the circumstances, if the surviving spouse*  
14 *had not disposed of such resource, it would be reasonable*  
15 *that the resource (or some portion of the resource) be con-*  
16 *sumed for the surviving spouse’s maintenance.*

17       “(ii) *For purposes of this paragraph, the Secretary*  
18 *may consider, in accordance with regulations the Secretary*  
19 *shall prescribe, a transfer of an asset (including a transfer*  
20 *of an asset to an annuity, trust, or other financial instru-*  
21 *ment or investment) a disposal of a covered resource for*  
22 *less than fair market value if such transfer reduces the*  
23 *amount in the corpus of the estate of the surviving spouse*  
24 *that the Secretary considers, under all the circumstances,*

1 *would be reasonable to be consumed for the surviving*  
2 *spouse's maintenance.*

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

6       “(ii) *The date described in this clause is the date on*  
7 *which the surviving spouse applies for pension under sec-*  
8 *tion 1541 of this title or, if later, the date on which the*  
9 *surviving spouse disposes of covered resources for less than*  
10 *fair market value.*

11       “(D) *The date described in this subparagraph is the*  
12 *first day of the first month in or after which covered re-*  
13 *sources were disposed of for less than fair market value and*  
14 *which does not occur in any other period of ineligibility*  
15 *under this paragraph.*

16       “(E) *The number of months calculated under this sub-*  
17 *paragraph shall be equal to—*

18               “(i) *the total, cumulative uncompensated value*  
19 *of the portion of covered resources so disposed of by*  
20 *the surviving spouse on or after the look-back date de-*  
21 *scribed in subparagraph (C)(i) that the Secretary de-*  
22 *termines would reasonably have been consumed for*  
23 *the surviving spouse's maintenance; divided by*

24               “(ii) *the maximum amount of monthly pension*  
25 *that is payable to a surviving spouse under section*

1       1541 of this title, including the maximum amount of  
2       increased pension payable under such section on ac-  
3       count of a child, but not including any amount of  
4       pension payable under such section because a sur-  
5       viving spouse is in need of regular aid and attend-  
6       ance or is permanently housebound,

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

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

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

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

1           “(B)(i) For purposes of this paragraph, a covered re-  
2 source is any resource that was a part of the corpus of the  
3 estate of the child that the Secretary considers that under  
4 all the circumstances, if the surviving spouse or the child  
5 had not disposed of such resource, it would be reasonable  
6 that the resource (or some portion of the resource) be con-  
7 sumed for the child’s maintenance.

8           “(ii) For purposes of this paragraph, the Secretary  
9 may consider, in accordance with regulations the Secretary  
10 shall prescribe, a transfer of an asset (including a transfer  
11 of an asset to an annuity, trust, or other financial instru-  
12 ment or investment) a disposal of a covered resource for  
13 less than fair market value if such transfer reduces the  
14 amount in the corpus of the estate of the child that the Sec-  
15 retary considers, under all the circumstances, would be rea-  
16 sonable to be consumed for the child’s maintenance.

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

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

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

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

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

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

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

20               (2) in subsection (b)—

21                       (A) by inserting “(1)” before “The Sec-  
22 retary”; and

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

1       “(2)(A) *If a child otherwise eligible for payment of*  
2 *pension under section 1542 of this title or any person with*  
3 *whom such child is residing who is legally responsible for*  
4 *such child’s support disposes of covered resources for less*  
5 *than fair market value on or after the look-back date de-*  
6 *scribed in subparagraph (C)(i), the Secretary shall deny or*  
7 *discontinue the payment of pension to such child under sec-*  
8 *tion 1542 of this title for months during the period begin-*  
9 *ning on the date described in subparagraph (D) and equal*  
10 *to the number of months calculated as provided in subpara-*  
11 *graph (E).*

12       “(B)(i) *For purposes of this paragraph, a covered re-*  
13 *source is any resource that was a part of the corpus of the*  
14 *estate of the child or the corpus of the estate of any person*  
15 *with whom such child is residing who is legally responsible*  
16 *for such child’s support that the Secretary considers that*  
17 *under all the circumstances, if the child or person had not*  
18 *disposed of such resource, it would be reasonable that the*  
19 *resource (or some portion of the resource) be consumed for*  
20 *the child’s maintenance.*

21       “(ii) *For purposes of this paragraph, the Secretary*  
22 *may consider, in accordance with regulations the Secretary*  
23 *shall prescribe, a transfer of an asset (including a transfer*  
24 *of an asset to an annuity, trust, or other financial instru-*  
25 *ment or investment) a disposal of a covered resource for*

1 *less than fair market value if such transfer reduces the*  
2 *amount in the corpus of the estate described in clause (i)*  
3 *that the Secretary considers, under all the circumstances,*  
4 *would be reasonable to be consumed for the child’s mainte-*  
5 *nance.*

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

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

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

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

21               “(i) *the total, cumulative uncompensated value*  
22 *of the portion of covered resources so disposed of by*  
23 *the child (or person described in subparagraph (B))*  
24 *on or after the look-back date described in subpara-*  
25 *graph (C)(i) that the Secretary determines would rea-*



1       sonably have been consumed for the child's mainte-  
2       nance; divided by

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

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

8               (3) by adding at the end the following new sub-  
9       sections:

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

17               “(A) a satisfactory showing is made to the Sec-  
18 retary (in accordance with regulations promulgated  
19 by the Secretary) that all resources disposed of for less  
20 than fair market value have been returned to the indi-  
21 vidual who disposed of the resources; or

22               “(B) the Secretary determines, under procedures  
23 established by the Secretary, that the denial or dis-  
24 continuance of payment would work an undue hard-

1        *ship as determined on the basis of criteria established*  
2        *by the Secretary.*

3        *“(2) At the time a surviving spouse or child applies*  
4        *for pension under section 1541 or 1542 of this title or in-*  
5        *creased pension under subsection (c), (d), or (e) of section*  
6        *1541 of this title on account of a child, and at such other*  
7        *times as the Secretary considers appropriate, the Secretary*  
8        *shall—*

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

15              *“(B) obtain from such surviving spouse or child*  
16              *information which may be used in determining*  
17              *whether or not a period of ineligibility for such pay-*  
18              *ments would be required by reason of such sub-*  
19              *sections.*

20              *“(d) Paragraphs (2) and (4) of subsection (a) and sub-*  
21              *section (b)(2) shall not apply with respect to the disposal*  
22              *of resources or the transfer of an asset if such disposal or*  
23              *transfer is to a trust described in section 1917(d)(4) of the*  
24              *Social Security Act (42 U.S.C. 1396p(d)(4)) that is estab-*

1 lished for the benefit of a child of the veteran or surviving  
2 spouse.”.

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

15 (d) *ANNUAL REPORTS.*—

16 (1) *IN GENERAL.*—Not later than two years after  
17 the date of the enactment of this Act and not less fre-  
18 quently than once each year thereafter through 2018,  
19 the Secretary of Veterans Affairs shall submit to the  
20 appropriate committees of Congress a report on the  
21 administration of subsections (a)(2), (b)(2), and (c) of  
22 section 1522 of title 38, United States Code, as added  
23 by subsection (a), and subsections (a)(2), (a)(4),  
24 (b)(2), and (c) of section 1543 of such title, as added

1       *by subsection (b), during the most recent 12-month*  
2       *period.*

3               (2) *ELEMENTS.—Each report submitted under*  
4       *paragraph (1) shall include the following, for the pe-*  
5       *riod covered by the report:*

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

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

10                      (C) *The number of individuals with respect*  
11       *to whom the Secretary denied or discontinued*  
12       *payment of pension under the subsections re-*  
13       *ferred to in paragraph (1).*

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

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

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

23                      (A) *the Committee on Veterans’ Affairs and*  
24       *the Select Committee on Aging of the Senate;*  
25       *and*

1                   (B) *the Committee on Veterans' Affairs of*  
2                   *the House of Representatives.*

3 **SEC. 203. BIFURCATED PAYMENTS OF COMPENSATION BEN-**  
4                   **EFITS UNDER LAWS ADMINISTERED BY THE**  
5                   **SECRETARY OF VETERANS AFFAIRS.**

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

9 **“§ 5127. Bifurcated payments of compensation benefits**

10           “(a) *IN GENERAL.*—*During the eight-year period be-*  
11 *ginning on the date of the enactment of this section, in the*  
12 *case of a claim described in subsection (b), prior to adjudi-*  
13 *cating the claim, the Secretary shall make payments of*  
14 *monetary benefits to the claimant based on any disability*  
15 *for which the Secretary has made a decision. Upon the ad-*  
16 *judication of the claim, the Secretary shall pay to the*  
17 *claimant any monetary benefits awarded to the claimant*  
18 *for the period of payment under section 5111 of this title*  
19 *less the amount of such benefits paid to the claimant under*  
20 *this section.*

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

1           “(1) the adjudication of which requires the Sec-  
2           retary to make decisions with respect to two or more  
3           disabilities; and

4           “(2) for which, before completing the adjudica-  
5           tion of the claim, the Secretary makes a decision with  
6           respect to a disability that would result in the pay-  
7           ment of monetary benefits to the claimant upon the  
8           adjudication of the claim.”.

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

          “5127. Bifurcated payments of compensation benefits.”.

13          (c) *EFFECTIVE DATE.*—Section 5127 of title 38,  
14          United State Code, as added by subsection (a) shall take  
15          effect on the date that is one year after the date of the enact-  
16          ment of this Act.

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

20          Section 5503(d)(7) of title 38, United States Code, is  
21          amended by striking “November 30, 2016” and inserting  
22          “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.

1           (c) *PUBLIC AVAILABILITY OF INFORMATION.*—*The Sec-*  
2 *retary of Veterans Affairs shall make publicly available all*  
3 *unclassified information provided to the Secretary under*  
4 *subsection (b).*

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

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

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

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

23                   (3) *The Joint Resolution to repeal sections 2, 3,*  
24 *and 6 of the Neutrality Act of 1939, and for other*  
25 *purposes (Public Law 77–294; 55 Stat. 764) repealed*



1        *section 6 of the Neutrality Act of 1939 (related to the*  
2        *arming of United States vessels) and authorized the*  
3        *President during the national emergency to arm or*  
4        *permit to arm any United States vessel.*

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

10           *(5) During World War II, United States mer-*  
11        *chant mariners transported goods and materials*  
12        *through “contested waters” to the various combat the-*  
13        *aters.*

14           *(6) At the conclusion of World War II, United*  
15        *States merchant mariners were responsible for trans-*  
16        *porting several million members of the United States*  
17        *Armed Forces back to the United States.*

18           *(7) The GI Bill Improvement Act of 1977 (Pub-*  
19        *lic Law 95–202) provided that the Secretary of De-*  
20        *fense could determine that service for the Armed*  
21        *Forces by organized groups of civilians, or contrac-*  
22        *tors, be considered “active service” for benefits admin-*  
23        *istered by the Veterans Administration.*

24           *(8) Department of Defense Directive 1000.20 di-*  
25        *rected that the determination be made by the Sec-*

1        *retary of the Air Force, and established the Civilian/  
2        Military Service Review Board and Advisory Panel.*

3            *(9) In 1987, three merchant mariners along with  
4        the AFL–CIO sued Edward C. Aldridge, Secretary of  
5        the Air Force, challenging the denial of their applica-  
6        tion for veterans status. In *Schumacher v. Aldridge*  
7        (665 F. Supp. 41 (D.D.C. 1987)), the Court deter-  
8        mined that Secretary Aldridge had failed to “articu-  
9        late clear and intelligible criteria for the administra-  
10        tion” of the application approval process.*

11           *(10) During World War II, women were repeat-  
12        edly denied issuance of official documentation affirm-  
13        ing their merchant marine seaman status by the War  
14        Shipping Administration.*

15           *(11) Coast Guard Information Sheet #77 (April  
16        1992) identifies the following acceptable forms of doc-  
17        umentation for eligibility meeting the requirements  
18        set forth in the GI Bill Improvement Act of 1977  
19        (Public Law 95–202) and Veterans Programs En-  
20        hancement Act of 1998 (Public Law 105–368):*

21            *(A) Certificate of shipping and discharge  
22        forms.*

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

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

3           (12) Coast Guard Commandant Order of March  
4           20, 1944, relieved masters of tugs, towboats, and sea-  
5           going barges of the responsibility of submitting re-  
6           ports of seamen shipped or discharged on forms,  
7           meaning certificates of shipping and discharge forms  
8           are not available to all eligible individuals seeking to  
9           document their eligibility.

10           (13) Coast Guard Information Sheet #77 (April  
11           1992) states that “deck logs were traditionally consid-  
12           ered to be the property of the owners of the ships.  
13           After World War II, however, the deck and engine  
14           logbooks of vessels operated by the War Shipping Ad-  
15           ministration were turned over to that agency by the  
16           ship owners, and were destroyed during the 1970s”,  
17           meaning that continuous discharge books are not  
18           available to all eligible individuals seeking to docu-  
19           ment their eligibility.

20           (14) Coast Guard Information Sheet #77 (April,  
21           1992) states “some World War II period log books do  
22           not name ports visited during the voyage due to war-  
23           time security restrictions”, meaning that company  
24           letters showing vessel names and dates of voyages are

1       *not available to all eligible individuals seeking to doc-*  
2       *ument their eligibility.*

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

6               ***(1) IN GENERAL.—****For the purposes of verifying*  
7       *that an individual performed service under honorable*  
8       *conditions that satisfies the requirements of a coast-*  
9       *wise merchant seaman who is recognized pursuant to*  
10       *section 401 of the GI Bill Improvement Act of 1977*  
11       *(Public Law 95–202; 38 U.S.C. 106 note) as having*  
12       *performed active duty service for the purposes de-*  
13       *scribed in paragraph (3)(A), the Secretary of Home-*  
14       *land Security shall accept the following:*

15               ***(A) In the case of an individual who served***  
16       *on a coastwise merchant vessel seeking such rec-*  
17       *ognition for whom no applicable Coast Guard*  
18       *shipping or discharge form, ship logbook, mer-*  
19       *chant mariner’s document or Z-card, or other of-*  
20       *ficial employment record is available, the Sec-*  
21       *retary shall provide such recognition on the basis*  
22       *of applicable Social Security Administration*  
23       *records submitted for or by the individual, to-*  
24       *gether with validated testimony given by the in-*  
25       *dividual or the primary next of kin of the indi-*

1            *vidual that the individual performed such service*  
2            *during the period beginning on December 7,*  
3            *1941, and ending on December 31, 1946.*

4            *(B) In the case of an individual who served*  
5            *on a coastwise merchant vessel seeking such rec-*  
6            *ognition for whom the applicable Coast Guard*  
7            *shipping or discharge form, ship logbook, mer-*  
8            *chant mariner's document or Z-card, or other of-*  
9            *ficial employment record has been destroyed or*  
10           *otherwise become unavailable by reason of any*  
11           *action committed by a person responsible for the*  
12           *control and maintenance of such form, logbook,*  
13           *or record, the Secretary shall accept other official*  
14           *documentation demonstrating that the indi-*  
15           *vidual performed such service during period be-*  
16           *ginning on December 7, 1941, and ending on*  
17           *December 31, 1946.*

18           *(C) For the purpose of determining whether*  
19           *to recognize service allegedly performed during*  
20           *the period beginning on December 7, 1941, and*  
21           *ending on December 31, 1946, the Secretary shall*  
22           *recognize masters of seagoing vessels or other offi-*  
23           *cers in command of similarly organized groups*  
24           *as agents of the United States who were author-*  
25           *ized to document any individual for purposes of*

1           *hiring the individual to perform service in the*  
2           *merchant marine or discharging an individual*  
3           *from such service.*

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

10          (3) *BENEFITS ALLOWED.—*

11                 (A) *BURIAL BENEFITS ELIGIBILITY.—**Service*  
12                 *of an individual that is considered active*  
13                 *duty pursuant to paragraph (1) shall be consid-*  
14                 *ered as active duty service with respect to pro-*  
15                 *viding burial benefits under chapters 23 and 24*  
16                 *of title 38, United States Code, to the individual.*

17                 (B) *MEDALS, RIBBONS, AND DECORA-*  
18                 *TIONS.—An individual whose service is recog-*  
19                 *nized as active duty pursuant to paragraph (1)*  
20                 *may be awarded an appropriate medal, ribbon,*  
21                 *or other military decoration based on such serv-*  
22                 *ice.*

23                 (C) *STATUS OF VETERAN.—An individual*  
24                 *whose service is recognized as active duty pursu-*  
25                 *ant to paragraph (1) shall be honored as a vet-*



1       (b) *CRITERIA FOR DESIGNATION.*—After the designa-  
2       tion made under subsection (c), the Secretary, in consulta-  
3       tion with the Secretary of Defense, shall make each designa-  
4       tion under subsection (a) based on the following criteria:

5               (1) *Contributions by a city to the war effort dur-*  
6       *ing World War II, including those related to defense*  
7       *manufacturing, bond drives, service in the Armed*  
8       *Forces, and the presence of military facilities within*  
9       *the city.*

10              (2) *Efforts by a city to preserve the history of the*  
11       *city’s contributions during World War II, including*  
12       *through the establishment of preservation organiza-*  
13       *tions or museums, restoration of World War II facili-*  
14       *ties, and recognition of World War II veterans.*

15       (c) *FIRST AMERICAN WORLD WAR II CITY.*—The city  
16       of Wilmington, North Carolina, is designated as an “Amer-  
17       ican World War II City”.

18       **SEC. 304. OBSERVANCE OF VETERANS DAY.**

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

22       **“§ 145. Veterans Day**

23              *“The President shall issue each year a proclamation*  
24       *calling on the people of the United States to observe two*  
25       *minutes of silence on Veterans Day in honor of the service*



1 *and sacrifice of veterans throughout the history of the Na-*  
2 *tion, beginning at—*

3           “(1) 3:11 p.m. Atlantic standard time;

4           “(2) 2:11 p.m. eastern standard time;

5           “(3) 1:11 p.m. central standard time;

6           “(4) 12:11 p.m. mountain standard time;

7           “(5) 11:11 a.m. Pacific standard time;

8           “(6) 10:11 a.m. Alaska standard time; and

9           “(7) 9:11 a.m. Hawaii-Aleutian standard time.”.

10       (b) *CLERICAL AMENDMENT.—The table of sections for*  
11 *chapter 1 of title 36, United States Code, is amended by*  
12 *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.”.

Union Calendar No. 171

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2189**

[Report No. 113-236]

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## **A BILL**

To establish a commission or task force to evaluate the backlog of disability claims of the Department of Veterans Affairs.

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SEPTEMBER 27, 2013

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed