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[Report No. 111-354]

To amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2010

Mr. AKAKA (for himself, Mrs. MURRAY, Mr. SCHUMER, Mr. ROCKEFELLER, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

NOVEMBER 29, 2010

Reported by Mr. AKAKA, with an amendment

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

A BILL

To amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Claims Processing Improvement Act of 2010”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—RATING OF SERVICE-CONNECTED DISABILITIES
 MATTERS**

Sec. 101. Pilot program on evaluation and rating of service-connected disabilities of the musculoskeletal system.

TITLE II—ADJUDICATION AND APPEAL MATTERS

Sec. 201. Partial adjudication of claims for disability compensation consisting of multiple issues one or more of which can be quickly adjudicated.

Sec. 202. Clarification that requirement of Secretary of Veterans Affairs to provide notice to claimants of additional information and evidence required only applies when additional information or evidence is actually required.

Sec. 203. Equal deference to private medical opinions in assessing claims for disability compensation.

Sec. 204. Improvements to disability compensation claim review process.

Sec. 205. Provision by Secretary of Veterans Affairs of notice of disagreement forms to initiate appellate review with notices of decisions of Department of Veterans Affairs.

Sec. 206. Modification of filing period for notice of disagreement to initiate appellate review of decisions of Department of Veterans Affairs.

Sec. 207. Modification of substantive appeal process.

Sec. 208. Provision of post-notice of disagreement decisions to claimants who file notice of disagreements.

Sec. 209. Automatic waiver of agency of original jurisdiction review of new evidence.

Sec. 210. Authority for Board of Veterans' Appeals to determine location and manner of appearance for hearings.

Sec. 211. Decision by Court of Appeals for Veterans Claims on all issues raised by appellants.

Sec. 212. Good cause extension of period for filing notice of appeal with United States Court of Appeals for Veterans Claims.

Sec. 213. Pilot program on participation of local and tribal governments in improving quality of claims for disability compensation submitted to Department of Veterans Affairs.

1 **TITLE I—RATING OF SERVICE-**
2 **CONNECTED DISABILITIES**
3 **MATTERS**

4 **SEC. 101. PILOT PROGRAM ON EVALUATION AND RATING**
5 **OF SERVICE-CONNECTED DISABILITIES OF**
6 **THE MUSCULOSKELETAL SYSTEM.**

7 (a) **PILOT PROGRAM REQUIRED.**—The Secretary of
8 Veterans Affairs shall carry out a pilot program to assess
9 the feasibility and advisability of applying an alternative
10 schedule for rating service-connected disabilities of the
11 musculoskeletal system.

12 (b) **SCHEDULE FOR RATING SERVICE-CONNECTED**
13 **DISABILITIES.**—

14 (1) **IN GENERAL.**—Not later than 240 days
15 after the date of the enactment of this Act, the Sec-
16 retary shall establish an alternative schedule for rat-
17 ing service-connected disabilities of the musculo-
18 skeletal system.

19 (2) **PUBLICATION IN FEDERAL REGISTER.**—Not
20 later than 270 days after the date of the enactment
21 of this Act, the Secretary shall publish the alter-
22 native schedule established under paragraph (1) in
23 the Federal Register.

24 (3) **COLLABORATION.**—The Secretary shall es-
25 tablish the alternative schedule required by para-

1 graph (1) collaboratively through the Under Sec-
2 retary for Benefits, the Under Secretary for Health,
3 and the General Counsel.

4 (4) ELEMENTS.—The alternative schedule for
5 rating disabilities under paragraph (1) shall include
6 the following:

7 (A) The use of the International Classifica-
8 tion of Diseases, as adopted by the Secretary of
9 Health and Human Services under section
10 1173(c) of the Social Security Act (42 U.S.C.
11 1320d-2(e)) and any successor revisions to
12 such classification so adopted, for purposes of
13 identifying disabilities of the musculoskeletal
14 system.

15 (B) A residual functional capacity assess-
16 ment instrument to describe the functional
17 musculoskeletal loss resulting from any dis-
18 ability of the musculoskeletal system.

19 (C) Mechanisms for the assignment of one
20 residual functional capacity rating for all mus-
21 culoskeletal disabilities determined to be serv-
22 ice-connected, which mechanisms shall take into
23 account the following:

24 (i) Frequency of symptoms affecting
25 residual functional capacity of the mus-

culoskeletal system, set forth as a range
of—

(I) infrequent (once a year or
less);

(II) several (two to six) times a
year;

(III) occasional (seven to twelve
times a year);

(IV) weekly; and

(V) daily or continuous.

(ii) Severity of symptoms affecting re-
sidual functional capacity of the musculo-
skeletal system resulting in loss of func-
tional capacity of the musculoskeletal sys-
tem, set forth as a range of—

(I) minimal (symptoms present
but requiring no treatment);

(II) slight (such as requiring
minor alteration of activity or treat-
ment with over-the-counter medica-
tion);

(III) mild (such as requiring rest
of relevant body part and use of over-
the-counter medication, prescription

1 medication, or therapy, such as ice or
2 heat to an affected part);

3 (IV) moderate (such as requiring
4 medical evaluation and treatment or
5 prescription medication for pain or
6 symptom control with side effects
7 which can be expected to interfere
8 with full performance of work-related
9 activities); and

10 (V) moderately severe to severe
11 (such as requiring the need to use as-
12 sistive devices for ambulation, use of
13 opiod or similar prescription medica-
14 tion to control pain which precludes
15 driving or being around machinery,
16 in-patient hospitalization or rehabilita-
17 tion or frequent out-patient treatment
18 physical therapy, or loss or loss of use
19 of functional capacity in both arms or
20 feet, or one arm and one foot, or re-
21 quiring a wheelchair for mobility).

22 (iii) Duration of symptoms affecting
23 residual functional capacity of the mus-
24 culoskeletal system resulting in reduced

functional capacity of the musculoskeletal system, set forth as a range of—

(I) one day or less to one week;

(II) more than one week but less than four weeks;

(III) four weeks or more but less than six months;

(IV) six months or more but less than one year; and

(V) one year or more.

(D) Mechanisms for the assignment of ratings of disability in certain cases as follows:

(i) If the veteran has an active musculoskeletal cancer or other active musculoskeletal disability likely to result in death, a rating of 100 percent.

(ii) If the veteran would qualify for a temporary disability rating under section 1156 of title 38, United States Code, the rating provided under that section.

(iii) If the veteran would qualify for a temporary disability rating under any regulations prescribed by the Secretary not provided for under this section, the rating assigned under such regulations.

1 ~~(E)~~ Such other mechanisms as the Sec-
 2 retary considers appropriate for the pilot pro-
 3 gram.

4 ~~(5)~~ FORMS FOR RECORDING RESIDUAL FUNC-
 5 TIONAL CAPACITY ASSESSMENTS.—

6 ~~(A)~~ IN GENERAL.—The Secretary shall es-
 7 tablish one or more functional capacity assess-
 8 ment forms to be used in performing assess-
 9 ments with the instrument required by para-
 10 graph ~~(4)~~(B).

11 ~~(B)~~ AVAILABILITY.—The Secretary shall
 12 make the forms established under subparagraph
 13 ~~(A)~~ available to the public in an electronic for-
 14 mat for use by any physician or other medical
 15 provider in assessing the residual functional ca-
 16 pacity related to disabilities of the musculo-
 17 skeletal system.

18 ~~(6)~~ EXEMPTION FROM APA.—The establishment
 19 of the alternative schedule required by paragraph ~~(1)~~
 20 shall not be subject to the requirements of sub-
 21 chapter II of chapter 5, and chapter 7, of title 5,
 22 United States Code (commonly known as the “Ad-
 23 ministrative Procedure Act”).

24 ~~(c)~~ APPLICATION OF ALTERNATIVE SCHEDULE.—

(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall apply the alternative schedule for rating disabilities established under subsection (b) to veterans described in paragraph (3) who have a condition of the musculoskeletal system that has been determined to be a disability incurred or aggravated during military service to determine the rating to be assigned for such disability.

(2) APPLICATION THROUGH REGIONAL OFFICES.—

(A) IN GENERAL.—The Secretary shall apply the alternative schedule for rating service-connected disabilities under this subsection through not fewer than six and not more than ten regional offices of the Department of Veterans Affairs selected by the Secretary for purposes of the pilot program.

(B) DIVERSITY OF SELECTION.—In selecting regional offices under subparagraph (A), the Secretary shall select—

- (i) at least one regional office considered by the Secretary to be a small office;
 - (ii) at least one regional office considered by the Secretary to be a large office;
- and

1 (iii) regional offices representing a va-
 2 riety of geographic settings.

3 ~~(3) COVERED VETERANS.~~—Veterans described
 4 in this paragraph are veterans who—

5 (A) submit to the Secretary more than one
 6 year after their date of discharge or release
 7 from the active military, naval, or air service an
 8 original claim for benefits under the laws ad-
 9 ministered by the Secretary;

10 (B) allege in the claim described in sub-
 11 paragraph (A) the existence of a condition of
 12 the musculoskeletal system that was incurred or
 13 aggravated in such military, naval, or air serv-
 14 ice;

15 (C) file such claim with a regional office of
 16 the Department with original jurisdiction of the
 17 claim that is participating in the pilot program;
 18 and

19 (D) have not expressly declined participa-
 20 tion in the pilot program.

21 ~~(4) RELATION TO COMBINED RATINGS~~
 22 ~~TABLE.~~—A rating assigned for a musculoskeletal
 23 service-connected disability under the pilot program
 24 shall be determined without regard to the Combined
 25 Ratings Table in title 38, Code of Federal Regula-

tions, except that in determining the final rating of all service-connected disabilities, the rating for musculoskeletal disabilities as determined under the pilot program shall be combined with any other disabilities using such table.

~~(5) TREATMENT OF DISABILITY RATINGS FOR LOSS OF BODILY INTEGRITY.~~—Compensation under laws administered by the Secretary for a disability receiving a disability rating under the schedule established under subsection (b)(1) shall be, as applicable, in addition to or consistent with any compensation otherwise provided under subsections (k) through (s) of section 1114 of title 38, United States Code.

~~(d) LIMITATIONS ON DENIAL OF SERVICE CONNECTION.~~—During the pilot program, the Secretary may not determine a musculoskeletal condition of a veteran to be not service-connected for purposes of the veteran's participation in the pilot program unless the Secretary—

~~(1) obtains, or receives a report of, a medical examination of the veteran which—~~

~~(A) includes a brief history of the veteran's military service relevant to the condition;~~

1 (B) identifies the diagnosed musculo-
 2 skeletal disabilities in accordance with the clas-
 3 sification required by subsection (b)(4)(A); and

4 (C) describes the functional limitations of
 5 such conditions, and if applicable, any sec-
 6 ondary conditions related to such alleged condi-
 7 tions or any non-service connected disability ag-
 8 gravated by the alleged conditions; and

9 (2) obtains or receives a medical opinion on—

10 (A) the nexus between any diagnosed mus-
 11 culoskeletal condition alleged to be service-con-
 12 nected and the active military, naval, or air
 13 service of the veteran; and

14 (B) if applicable, the relationship between
 15 any service-connected disabilities of the veteran
 16 and any secondary disabilities related to such
 17 disabilities or any non-service connected dis-
 18 ability aggravated by the alleged conditions.

19 (e) RECORDS.—

20 (1) IN GENERAL.—The Secretary shall main-
 21 tain for purposes of the pilot program a separate
 22 searchable electronic file on each veteran covered by
 23 the pilot program.

1 ~~(2) ELEMENTS.—~~The electronic file maintained
2 with respect to a veteran under paragraph ~~(1)~~ shall
3 include for the following:

4 ~~(A)~~ An index of the documents contained
5 in the electronic file.

6 ~~(B)~~ The claim of the veteran for benefits
7 under the laws administered by the Secretary,
8 including any reapplication with respect to such
9 claim.

10 ~~(C)~~ The service treatment records of the
11 veteran from medical care received while serv-
12 ing in the active military, naval, or air service
13 and any other medical treatment records of the
14 veteran from service during periods of active or
15 inactive duty for training.

16 ~~(D)~~ The personnel records of service of the
17 veteran—

18 ~~(i)~~ in the active military, naval, or air
19 service; and

20 ~~(ii)~~ in the reserve components of the
21 Armed Forces.

22 ~~(E)~~ Such other private or public medical
23 records of the veteran as the Secretary con-
24 siders appropriate.

1 (F) Records of any medical examinations
2 and medical opinions on the residual functional
3 capacity of the musculoskeletal system of the
4 veteran, including any examinations and opin-
5 ions obtained under subsection (d).

6 (G) Records of any medical examinations
7 and medical opinions concerning any non-mus-
8 culoskeletal disabilities claimed by the veteran
9 as service-connected.

10 (H) Any non-medical evidence applicable to
11 the claim.

12 (I) Current information and evidence on
13 any dependents of the veteran for purposes of
14 the laws administered by the Secretary.

15 (J) Ratings and decisions of the Secretary
16 with respect to the claims of the veteran.

17 (K) Information concerning the amount of
18 compensation paid to the veteran under laws
19 administered by the Secretary.

20 (L) Any notices or correspondence sent by
21 the Secretary to the veteran or any correspond-
22 ence submitted by the veteran to the Secretary
23 in connection with the claim that does not con-
24 tain evidence or information applicable to the
25 claims of the veteran.

1 ~~(3)~~ ORGANIZATION.—Each file required by
 2 paragraph (1) shall be stored or displayed with sepa-
 3 rate sections for each element required under para-
 4 graph (2).

5 ~~(f)~~ TERMINATION OF APPLICATION.—The Secretary
 6 shall cease the application to veterans under subsection
 7 ~~(e)~~ of the alternative schedule for rating service-connected
 8 disabilities under subsection (b) for purposes of the pilot
 9 program on the date that is 4 years after the date of the
 10 enactment of this Act.

11 ~~(g)~~ PRESERVATION OF RATINGS.—

12 ~~(1)~~ IN GENERAL.—Except as provided in para-
 13 graph (2), a disability rating assigned under the al-
 14 ternative schedule established under subsection (b)
 15 shall not be reduced during or after termination of
 16 the pilot program absent evidence of clear and un-
 17 mistakable error in the original assignment of the
 18 rating or evidence of an improvement in the mus-
 19 culoskeletal disability manifested by less frequent,
 20 less severe, or shorter duration of symptoms meas-
 21 ured over a period of at least six months in the year
 22 prior to any re-evaluation.

23 ~~(2)~~ EXCEPTION.—Paragraph (1) shall not
 24 apply to ratings assigned for temporary periods as
 25 provided in subsection (b)(4)(D).

1 (h) RELATIONSHIP TO OTHER PROVISIONS OF LAW
 2 ADMINISTERED BY THE SECRETARY OF VETERANS AF-
 3 FAIRS.—Except as otherwise specifically provided in this
 4 section, all applicable provisions of law administered by
 5 the Secretary shall apply to decisions of the Secretary
 6 made under the pilot program.

7 (i) INTERIM REPORT.—

8 (1) IN GENERAL.—Not later than 300 days
 9 after the date of the enactment of this Act, the Sec-
 10 retary shall submit to the Committee on Veterans'
 11 Affairs of the Senate and the Committee on Vet-
 12 erans' Affairs of the House of Representatives an in-
 13 terim report on the pilot program.

14 (2) ELEMENTS.—The interim report required
 15 by paragraph (1) shall include the following:

16 (A) A description of the alternative sched-
 17 ule for rating service-connected disabilities es-
 18 tablished under subsection (b).

19 (B) The rationale for the alternative sched-
 20 ule as described under subparagraph (A).

21 (C) A description of the policies and proce-
 22 dures established under the pilot program.

23 (j) REPORT.—

24 (1) IN GENERAL.—Not later than 3 years and
 25 180 days after the date of the enactment of this Act,

1 the Secretary shall submit to the Committee on Vet-
 2 erans' Affairs of the Senate and the Committee on
 3 Veterans' Affairs of the House of Representatives a
 4 report on the pilot program.

5 (2) ELEMENTS.—The report required by para-
 6 graph (1) shall include the following:

7 (A) A copy of the alternative schedule for
 8 rating service-connected disabilities established
 9 under subsection (b) and any changes made to
 10 such schedule during the pilot program.

11 (B) A description and assessment of the
 12 application of the alternative schedule for rating
 13 service-connected disabilities of veterans, includ-
 14 ing—

15 (i) the total number of veterans to
 16 which the alternative schedule was applied;

17 (ii) the total number of veterans de-
 18 termined to have a service-connected dis-
 19 ability consisting of a condition of the mus-
 20 culoskeletal system; and

21 (iii) the ratings of disability assigned
 22 to veterans described in clause (ii), set
 23 forth by percentage of disability assigned.

24 (C) An assessment of the feasibility and
 25 advisability of applying the alternative schedule

1 for rating service-connected disabilities to addi-
 2 tional claimants.

3 ~~(D)~~ A comparison of a representative sam-
 4 ple of decisions rendered by different regional
 5 offices for similar disabilities participating in
 6 the pilot program.

7 ~~(E)~~ The number of appeals filed for claims
 8 adjudicated under the pilot program.

9 ~~(F)~~ An assessment of the effectiveness of
 10 the electronic file maintained under subsection
 11 (e) in—

12 (i) the adjudication of claims under
 13 the pilot program; and

14 (ii) improving the efficiency of deci-
 15 sion making by the Department.

16 ~~(G)~~ Such recommendations for legislative
 17 or administrative action as the Secretary con-
 18 siders appropriate in light of the pilot program.

19 ~~(k)~~ DEFINITIONS.—In this section:

20 (1) The term “active military, naval, or air
 21 service” has the meaning given that term in section
 22 101(24) of title 38, United States Code.

23 (2) The term “non-service-connected”, with re-
 24 spect to a disability, has the meaning given that

1 term in section 101(17) of title 38, United States
2 Code.

3 ~~(3) The term “service-connected”, with respect~~
4 ~~to a disability, has the meaning given that term in~~
5 ~~section 101(16) of title 38, United States Code.~~

6 **TITLE II—ADJUDICATION AND** 7 **APPEAL MATTERS**

8 **SEC. 201. PARTIAL ADJUDICATION OF CLAIMS FOR DIS-**
9 **ABILITY COMPENSATION CONSISTING OF**
10 **MULTIPLE ISSUES ONE OR MORE OF WHICH**
11 **CAN BE QUICKLY ADJUDICATED.**

12 ~~(a) IN GENERAL.—Section 1157 of title 38, United~~
13 ~~States Code, is amended—~~

14 ~~(1) by striking “The Secretary” and inserting~~
15 ~~the following:~~

16 ~~“(a) IN GENERAL.—The Secretary”; and~~

17 ~~(2) by adding at the end the following new sub-~~
18 ~~section:~~

19 ~~“(b) ASSIGNMENT OF PARTIAL RATINGS.—(1) In the~~
20 ~~case of a veteran who submits to the Secretary a claim~~
21 ~~for compensation under this chapter for more than one~~
22 ~~condition and the Secretary determines that a disability~~
23 ~~rating can be assigned without further development for~~
24 ~~one or more conditions but not all conditions in the claim,~~
25 ~~the Secretary shall—~~

“(2) If the Secretary is able to assign a disability rating for a condition described in paragraph (1)(B) with respect to a claim, the Secretary shall assign such rating and combine such rating with the rating or ratings previously assigned under paragraph (1)(A) with respect to that claim.”.

18 SEC. 202. CLARIFICATION THAT REQUIREMENT OF SEC-
19 RETARY OF VETERANS AFFAIRS TO PROVIDE
20 NOTICE TO CLAIMANTS OF ADDITIONAL IN-
21 FORMATION AND EVIDENCE REQUIRED ONLY
22 APPLIES WHEN ADDITIONAL INFORMATION
23 OR EVIDENCE IS ACTUALLY REQUIRED.

•S 3517 RS

1 tence and inserting the following: “If the Secretary re-
 2 ceives a complete or substantially complete application
 3 that does not include information or medical or lay evi-
 4 dence not previously provided to the Secretary that is nec-
 5 essary to substantiate the claim, the Secretary shall, upon
 6 receipt of such application, notify the claimant and the
 7 claimant’s representative, if any, that such information or
 8 evidence is necessary to substantiate the claim.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
 10 subsection (a) shall take effect on the date of the enact-
 11 ment of this Act, and shall apply with respect to claims
 12 filed on or after the date that is 60 days after the date
 13 of the enactment of this Act.

14 **SEC. 203. EQUAL DEFERENCE TO PRIVATE MEDICAL OPIN-**
 15 **IONS IN ASSESSING CLAIMS FOR DISABILITY**
 16 **COMPENSATION.**

17 (a) **PROVISION OF DEFERENCE.**—

18 (1) **IN GENERAL.**—Subchapter I of chapter 51
 19 of title 38, United States Code, is amended by in-
 20 serting after section 5103A the following new sec-
 21 tion:

22 **“§ 5103B. Treatment of private medical opinions**

23 “(a) **IN GENERAL.**—If a claimant submits a private
 24 medical opinion in support of a claim for disability com-
 25 pensation in accordance with standards established by the

1 Secretary, such opinion shall be treated by the Secretary
2 with the same deference as a medical opinion provided by
3 a Department health care provider.

4 “(b) SUPPLEMENTAL INFORMATION.—(1) If a pri-
5 vate medical opinion submitted as described in subsection
6 (a) is found by the Secretary to be competent, credible,
7 and probative, but otherwise not entirely adequate for pur-
8 poses of assigning a disability rating and the Secretary
9 determines a medical opinion from a Department health
10 care provider is necessary for such purpose, the Secretary
11 shall obtain from an appropriate Department health care
12 provider (as determined pursuant to the standards de-
13 scribed in subsection (a)) a medical opinion that is ade-
14 quate for such purposes.

15 “(2) If the Secretary obtains a medical opinion from
16 a Department health care provider under paragraph (1),
17 the Secretary shall ensure that the medical opinion is ob-
18 tained from a health care provider of the Department that
19 has professional qualifications that are at least equal to
20 the qualifications of the provider of the private medical
21 opinion described in such paragraph.

22 “(c) DEPARTMENT HEALTH CARE PROVIDER DE-
23 FINED.—In this section, the term ‘Department health care
24 provider’ includes a provider of health care who provides
25 health care under contract with the Department.”

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions at the beginning of chapter 51 of such title is
 3 amended by inserting after the item relating to sec-
 4 tion 5103A the following new item:

“5103B. Treatment of private medical opinions.”.

5 (3) EFFECTIVE DATE.—Section 5103B of such
 6 title, as added by paragraph (1), shall take effect on
 7 the date of the enactment of this Act, and shall
 8 apply with respect to claims pending or filed on or
 9 after the date that is 270 days after the date of the
 10 enactment of this Act.

11 (b) NOTICE.—

12 (1) IN GENERAL.—Section 5103(a) of such title
 13 is amended by adding at the end the following new
 14 paragraph:

15 “(3) A notice provided under this subsection shall in-
 16 form a claimant, as the Secretary considers appropriate
 17 with respect to the claimant’s claim—

18 “(A) of the rights of the claimant to assistance
 19 under section 5103A of this title; and

20 “(B) if the claimant submits a private medical
 21 opinion in support of a claim for disability com-
 22 pensation, how such medical opinion will be treated
 23 under section 5103B of this title.”.

24 (2) EFFECTIVE DATE.—Paragraph (3) of such
 25 section 5103(a), as added by paragraph (1), shall

1 take effect on the date that is 270 days after the
 2 date of the enactment of this Act.

3 **SEC. 204. IMPROVEMENTS TO DISABILITY COMPENSATION**
 4 **CLAIM REVIEW PROCESS.**

5 (a) ESTABLISHMENT OF FAST TRACK CLAIM RE-
 6 VIEW PROCESS.—

7 (1) IN GENERAL.—Subchapter I of chapter 51
 8 of title 38, United States Code, is amended by in-
 9 serting after section 5103B, as added by section 203
 10 of this Act, the following new section:

11 **“§ 5103C. Expedited review of initial claims for dis-**
 12 **ability compensation**

13 “(a) PROCESS REQUIRED.—The Secretary shall es-
 14 tablish a process for the rapid identification of initial
 15 claims for disability compensation that should, in the adju-
 16 dication of such claims, receive priority in the order of re-
 17 view.

18 “(b) REVIEW OF INITIAL CLAIMS.—As part of the
 19 process required by subsection (a), the Secretary shall as-
 20 sign employees of the Department who are experienced in
 21 the processing of claims for disability compensation to
 22 carry out a preliminary review of all initial claims for dis-
 23 ability compensation submitted to the Secretary in order
 24 to identify whether—

1 ~~“(1) the claims have the potential of being ad-~~
 2 ~~judicated quickly;~~

3 ~~“(2) the claims qualify for priority treatment~~
 4 ~~under paragraph (2) of subsection (c); and~~

5 ~~“(3) a temporary disability rating could be as-~~
 6 ~~signed with respect to the claims under section 1156~~
 7 ~~of this title.~~

8 ~~“(e) PRIORITY IN ADJUDICATION OF INITIAL~~
 9 ~~CLAIMS.—(1) As part of the process required by sub-~~
 10 ~~section (a) and except as provided in paragraph (2); the~~
 11 ~~Secretary shall, in the adjudication of initial claims for~~
 12 ~~disability compensation submitted to the Secretary, give~~
 13 ~~priority in the order of review of such claims to claims~~
 14 ~~identified under subsection (b)(1) as having the potential~~
 15 ~~of being adjudicated quickly.~~

16 ~~“(2) The Secretary may, under regulations the Sec-~~
 17 ~~retary shall prescribe, provide priority in the order of re-~~
 18 ~~view of initial claims for disability compensation for the~~
 19 ~~adjudication of the following:~~

20 ~~“(A) Initial claims for disability compensation~~
 21 ~~submitted by homeless claimants.~~

22 ~~“(B) Initial claims for disability compensation~~
 23 ~~submitted by veterans who are terminally ill.~~

1 “(C) Initial claims for disability compensation
2 submitted by claimants suffering severe financial
3 hardship.

4 “(D) Partially adjudicated claims for disability
5 compensation under section 1157(b) of this title.”.

6 ~~(2) CLERICAL AMENDMENT.—~~The table of sec-
7 tions at the beginning of chapter 51 of such title is
8 amended by inserting after the item relating to sec-
9 tion 5103B, as so added, the following new item:

“5103C. Expedited review of initial claims for disability compensation.”.

10 ~~(3) EFFECTIVE DATE.—~~Section 5103C of such
11 title, as added by paragraph (1), shall take effect on
12 the date that is 90 days after the date of the enact-
13 ment of this Act.

14 ~~(b) AUTHORITY FOR CLAIMANTS TO END DEVELOP-~~
15 ~~MENT OF CLAIMS.—~~

16 ~~(1) IN GENERAL.—~~Such subchapter is further
17 amended by inserting after section 5103C, as added
18 by subsection (a), the following new section:

19 **“§ 5103D. Procedures for fully developed claims**

20 “Upon notification received from a claimant that the
21 claimant has no additional information or evidence to sub-
22 mit, the Secretary may determine that the claim is a fully
23 developed claim. The Secretary shall then undertake any
24 development necessary for any Federal records, medical

1 examinations, or opinions relevant to the claim and may
 2 decide the claim based on all the evidence of record.”.

3 ~~(2) CLERICAL AMENDMENT.~~—The table of sec-
 4 tions at the beginning of chapter 51 of such title is
 5 amended by inserting after the item relating to sec-
 6 tion 5103C, as added by subsection (a), the fol-
 7 lowing new item:

“5103D. Procedures for fully developed claims.”.

8 ~~(3) EFFECTIVE DATE.~~—Section 5103D of such
 9 title, as added by paragraph (1), shall take effect on
 10 the date of the enactment of this Act.

11 **SEC. 205. PROVISION BY SECRETARY OF VETERANS AF-**
 12 **FAIRS OF NOTICE OF DISAGREEMENT FORMS**
 13 **TO INITIATE APPELLATE REVIEW WITH NO-**
 14 **TICES OF DECISIONS OF DEPARTMENT OF**
 15 **VETERANS AFFAIRS.**

16 (a) IN GENERAL.—Section 5104 of title 38, United
 17 States Code, is amended—

18 (1) in subsection (a), by striking the second
 19 sentence; and

20 (2) in subsection (b), by striking “also include
 21 (1) a” and all that follows and inserting the fol-
 22 lowing: “include the following:

23 “(1) A statement of the reasons for the deci-
 24 sion.

1 “(2) A summary of the evidence relied upon by
2 the Secretary in making the decision.

3 “(3) An explanation of the procedure for ob-
4 taining review of the decision.

5 “(4) A form that, once completed, can serve as
6 a notice of disagreement under section 7105(a) of
7 this title.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) shall take effect on the date that is 180
10 days after the date of the enactment of this Act.

11 **SEC. 206. MODIFICATION OF FILING PERIOD FOR NOTICE**
12 **OF DISAGREEMENT TO INITIATE APPELLATE**
13 **REVIEW OF DECISIONS OF DEPARTMENT OF**
14 **VETERANS AFFAIRS.**

15 (a) FILING OF NOTICE OF DISAGREEMENT BY
16 CLAIMANTS.—

17 (1) IN GENERAL.—Paragraph (1) of section
18 7105(b) of title 38, United States Code, is amend-
19 ed—

20 (A) by striking “one year” and inserting
21 “180 days” in the first sentence; and

22 (B) by striking “one-year” and inserting
23 “180-day” in the third sentence.

1 ~~(2) ELECTRONIC FILING.~~—Such paragraph is
 2 further amended by inserting “or transmitted by
 3 electronic means” after “postmarked”.

4 ~~(3) GOOD CAUSE EXCEPTION FOR UNTIMELY~~
 5 ~~FILING OF NOTICES OF DISAGREEMENT.~~—Such sec-
 6 tion 7105(b) is amended by adding at the end the
 7 following new paragraph:

8 ~~“(3)(A) A notice of disagreement not filed within the~~
 9 ~~time prescribed by paragraph (1) shall be treated by the~~
 10 ~~Secretary as timely filed if—~~

11 ~~“(i) the Secretary determines that the claimant,~~
 12 ~~legal guardian, or other accredited representative,~~
 13 ~~attorney, or authorized agent filing the notice had~~
 14 ~~good cause for the lack of filing within such time;~~
 15 ~~and~~

16 ~~“(ii) the notice of disagreement is filed not later~~
 17 ~~than 186 days after the period prescribed by para-~~
 18 ~~graph (1).~~

19 ~~“(B) For purposes of this paragraph, good cause~~
 20 ~~shall include the following:~~

21 ~~“(i) Circumstances relating to any physical,~~
 22 ~~mental, educational, or linguistic limitation of the~~
 23 ~~claimant, legal guardian, representative, attorney, or~~
 24 ~~authorized agent concerned (including lack of facility~~
 25 ~~with the English language).~~

1 “(ii) Circumstances relating to significant delay
2 in the delivery of the initial decision or of the notice
3 of disagreement caused by natural disaster or fac-
4 tors relating to geographic location.

5 “(iii) A change in financial circumstances, in-
6 cluding the payment of medical expenses or other
7 changes in income or net worth that are considered
8 in determining eligibility for benefits and services on
9 an annualized basis for purposes of needs-based ben-
10 efits under chapters 15 and 17 of this title.”.

11 (b) APPLICATION BY DEPARTMENT FOR REVIEW ON
12 APPEAL.—Section 7106 of such title is amended in the
13 first sentence by striking “one-year period described in
14 section 7105” and inserting “period described in section
15 7105(b)(1)”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date that is 180 days
18 after the date of the enactment of this Act, and shall apply
19 with respect to claims filed on or after the date of the
20 enactment of this Act.

21 **SEC. 207. MODIFICATION OF SUBSTANTIVE APPEAL PROC-**
22 **ESS.**

23 (a) IN GENERAL.—Section 7105 of title 38, United
24 States Code, is amended—

25 (1) in subsection (d)—

1 (A) in paragraph (3), by striking “The
2 claimant will be afforded” and all that follows
3 through the end of the paragraph; and

4 (B) by striking paragraphs (4) and (5);
5 and

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

8 “(e)(1) A claimant shall be afforded a period of 60
9 days from the date the post-notice of disagreement deci-
10 sion is mailed under subsection (d) to file a substantive
11 appeal.

12 “(2)(A) The period under paragraph (1) may be ex-
13 tended for an additional 60 days for good cause shown
14 on a request for such extension submitted in writing with-
15 in such period.

16 “(B) For purposes of this paragraph, good cause
17 shall include the following:

18 “(i) Circumstances relating to any physical,
19 mental, educational, or linguistic limitation of the
20 claimant, legal guardian, or other accredited rep-
21 resentative, attorney, or authorized agent filing the
22 request (including lack of facility with the English
23 language).

24 “(ii) Circumstances relating to significant delay
25 in the delivery of the initial decision or of the notice

1 of disagreement caused by natural disaster or fac-
2 tors relating to geographic location.

3 “(iii) A change in financial circumstances, in-
4 cluding the payment of medical expenses or other
5 changes in income or net worth that are considered
6 in determining eligibility for benefits and services on
7 an annualized basis for purposes of needs-based ben-
8 efits under chapters 15 and 17 of this title.

9 “(3) A substantive appeal under this subsection shall
10 identify the particular determination or determinations
11 being appealed and allege specific errors of fact or law
12 made by the agency of original jurisdiction in each deter-
13 mination being appealed.

14 “(4) A claimant in any case under this subsection
15 may not be presumed to agree with any statement of fact
16 contained in the post-notice of disagreement decision to
17 which the claimant does not specifically express disagree-
18 ment.

19 “(5) If the claimant does not file a substantive appeal
20 in accordance with the provisions of this chapter within
21 the period afforded under paragraphs (1) and (2), as the
22 case may be, the agency of original jurisdiction shall dis-
23 miss the appeal and notify the claimant of the dismissal.
24 The notice shall include an explanation of the procedure

1 for obtaining review of the dismissal by the Board of Vet-
 2 erans' Appeals.

3 ~~“(6) In order to obtain review by the Board of a dis-~~
 4 ~~missal of an appeal by the agency of original jurisdiction;~~
 5 ~~a claimant shall file a request for such review with the~~
 6 ~~Board within the 60-day period beginning on the date on~~
 7 ~~which notice of the dismissal is mailed pursuant to para-~~
 8 ~~graph (5).~~

9 ~~“(7) If a claimant does not file a request for review~~
 10 ~~by the Board in accordance with paragraph (6) within the~~
 11 ~~prescribed period or if such a request is timely filed and~~
 12 ~~the Board affirms the dismissal of the appeal, the deter-~~
 13 ~~mination of the agency of original jurisdiction regarding~~
 14 ~~the claim for benefits under this title shall become final~~
 15 ~~and the claim may not thereafter be reopened or allowed;~~
 16 ~~except as may otherwise be provided by regulations not~~
 17 ~~inconsistent with this title.~~

18 ~~“(8) If an appeal is not dismissed by the agency of~~
 19 ~~original jurisdiction, the Board may nonetheless dismiss~~
 20 ~~any appeal which is—~~

21 ~~“(A) untimely; or~~

22 ~~“(B) fails to allege specific error of fact or law~~
 23 ~~in the determination being appealed.”.~~

24 (b) EFFECTIVE DATE.—The amendments made by
 25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act, and shall apply with respect to claims
 2 filed on or after the date that is 180 days after the date
 3 of the enactment of this Act.

4 **SEC. 208. PROVISION OF POST-NOTICE OF DISAGREEMENT**
 5 **DECISIONS TO CLAIMANTS WHO FILE NOTICE**
 6 **OF DISAGREEMENTS.**

7 (a) IN GENERAL.—Section 7105 of title 38, United
 8 States Code, is amended—

9 (1) by striking “statement of the ease” each
 10 place it appears and inserting “post-notice of dis-
 11 agreement decision”; and

12 (2) in subsection (d), as amended by section
 13 207 of this Act—

14 (A) in paragraph (1), by striking subpara-
 15 graphs (A) through (C) and inserting the fol-
 16 lowing new subparagraphs:

17 “(A) A description of the specific facts in the
 18 case that support the agency’s decision, including, if
 19 applicable, an assessment as to the credibility of any
 20 lay evidence pertinent to the issue or issues with
 21 which disagreement has been expressed.

22 “(B) A citation to pertinent laws and regula-
 23 tions that support the agency’s decision.

24 “(C) A statement that addresses each issue and
 25 provides the reasons why the evidence relied upon

1 supports the conclusions of the agency under the
 2 specific laws and regulations applied.

3 “(D) The date by which a substantive appeal
 4 must be filed in order to obtain further review of the
 5 decision.”; and

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

8 “(4) The post-notice of disagreement decision shall
 9 be written in plain language.”.

10 (b) CONFORMING AMENDMENT.—Section 7105A of
 11 such title is amended by striking “statement of the case”
 12 each place it appears and inserting “post-notice of dis-
 13 agreement decision”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall take effect on the date that is 180 days
 16 after the date of the enactment of this Act, and shall apply
 17 with respect to notices of disagreements filed on or after
 18 the date that is 180 days after the date of the enactment
 19 of this Act.

20 **SEC. 209. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL**
 21 **JURISDICTION REVIEW OF NEW EVIDENCE.**

22 (a) IN GENERAL.—Section 7105 of title 38, United
 23 States Code, as amended by section 207 of this Act, is
 24 further amended by adding at the end the following new
 25 subsection:

(b) ~~EFFECTIVE DATE.~~—Subsection (f) of such section, as added by subsection (a), shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims for which a substantive appeal is filed on or after the date that is 180 days after the date of the enactment of this Act.

20 **SEC. 210. AUTHORITY FOR BOARD OF VETERANS' APPEALS**
21 **TO DETERMINE LOCATION AND MANNER OF**
22 **APPEARANCE FOR HEARINGS.**

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1 (1) in paragraph (1), by striking “An appel-
 2 lant” and all that follows through the end and in-
 3 serting the following: “Upon request by an appellant
 4 for a hearing before the Board, the Board shall de-
 5 termine whether the hearing will be held at its prin-
 6 cipal location or at a facility of the Department, or
 7 other appropriate Federal facility, located within the
 8 area served by a regional office of the Department
 9 as the Secretary considers most appropriate to
 10 schedule the earliest possible date for the hearing.”;
 11 and

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

14 “(4) A determination by the Board under paragraph
 15 (1) with respect to the location of a hearing shall be final
 16 unless the appellant demonstrates, on motion, good cause
 17 or special circumstances warranting a different location.”.

18 (b) MANNER OF APPEARANCE.—Subsection (c) of
 19 such section is amended—

20 (1) in paragraph (2)—

21 (A) by striking “afford the appellant an
 22 opportunity” and inserting “, as the Chairman
 23 determines appropriate, require the appellant”;
 24 and

25 (B) by striking the last sentence; and

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

3 ~~“(3) A determination by the Chairman under para-~~
4 ~~graph (2) with respect to the participation of an appellant~~
5 ~~in a hearing shall be final unless the appellant dem-~~
6 ~~onstrates, on motion, good cause or special circumstances~~
7 ~~warranting a different determination.”.~~

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date that is 180 days
10 after the date of the enactment of this Act, and shall apply
11 with respect to requests for hearings filed on or after the
12 date that is 180 days after the date of the enactment of
13 this Act.

14 **SEC. 211. DECISION BY COURT OF APPEALS FOR VETERANS**

15 **CLAIMS ON ALL ISSUES RAISED BY APPEL-**
16 **LANTS.**

17 Section 7261 of title 38, United States Code, is
18 amended—

19 (1) in subsection (a), in the matter before para-
20 graph (1), by striking “, to the extent necessary to
21 its decision and when presented, shall” and inserting
22 “shall, when presented”;

23 (2) by redesignating subsections (e) and (d) as
24 subsections (d) and (e), respectively; and

1 ~~(3)~~ by inserting after subsection (b) the fol-
 2 lowing new subsection (c):

3 ~~“(c) In carrying out a review of a decision of the~~
 4 ~~Board of Veterans’ Appeals, the Court shall render a deci-~~
 5 ~~sion on every issue raised by an appellant within the ex-~~
 6 ~~tent set forth in this section.”.~~

7 **SEC. 212. GOOD CAUSE EXTENSION OF PERIOD FOR FILING**
 8 **NOTICE OF APPEAL WITH UNITED STATES**
 9 **COURT OF APPEALS FOR VETERANS CLAIMS.**

10 (a) ~~IN GENERAL.~~—Section 7266 of title 38, United
 11 States Code, is amended—

12 ~~(1)~~ by redesignating subsections (b), (c), and
 13 (d) as subsections (c), (d), and (e), respectively;

14 ~~(2)~~ by inserting after subsection (a) the fol-
 15 lowing new subsection (b):

16 ~~“(b)(1) The Court may extend the initial period for~~
 17 ~~the filing of a notice of appeal set forth in subsection (a)~~
 18 ~~for an additional period not to exceed 120 days from the~~
 19 ~~expiration of such initial period upon a motion—~~

20 ~~“(A) filed with the Court not later than 120~~
 21 ~~days after the expiration of such initial period; and~~

22 ~~“(B) showing good cause for such extension.~~

23 ~~“(2) If a motion for extension under paragraph (1)~~
 24 ~~is filed after expiration of the initial period for the filing~~
 25 ~~of a notice of appeal set forth in subsection (a), the notice~~

1 of appeal shall be filed concurrently with, or prior to, the
 2 filing of the motion.”; and

3 ~~(3)~~ in subsection (c), as redesignated by para-
 4 graph (1), by striking “subsection (c)(2)” and in-
 5 serting “subsection (d)(2)”.

6 (b) **EFFECTIVE DATE.**—The amendments made by
 7 subsection (a) shall take effect on the date of the enact-
 8 ment of this Act and shall apply with respect to notices
 9 of appeal filed on or after the date of the enactment of
 10 this Act.

11 **SEC. 213. PILOT PROGRAM ON PARTICIPATION OF LOCAL**
 12 **AND TRIBAL GOVERNMENTS IN IMPROVING**
 13 **QUALITY OF CLAIMS FOR DISABILITY COM-**
 14 **PENSATION SUBMITTED TO DEPARTMENT OF**
 15 **VETERANS AFFAIRS.**

16 (a) **PILOT PROGRAM REQUIRED.**—The Secretary of
 17 Veterans Affairs shall carry out a pilot program to assess
 18 the feasibility and advisability of entering into memoran-
 19 dums of understanding with local governments and tribal
 20 organizations—

21 (1) to improve the quality of claims submitted
 22 to the Secretary for compensation under chapter 11
 23 of title 38, United States Code; and

1 (2) to provide assistance to veterans who may
2 be eligible for such compensation in submitting such
3 claims.

4 (b) MINIMUM NUMBER OF PARTICIPATING TRIBAL
5 ORGANIZATIONS.—In carrying out the pilot program re-
6 quired by subsection (a), the Secretary shall enter into
7 memorandums of understanding with at least two tribal
8 organizations.

9 (c) TRIBAL ORGANIZATION DEFINED.—In this sec-
10 tion, the term “tribal organization” has the meaning given
11 that term in section 3765 of title 38, United States Code.

12 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

13 (a) *SHORT TITLE.*—This Act may be cited as the
14 “Claims Processing Improvement Act of 2010”.

15 (b) *TABLE OF CONTENTS.*—The table of contents for
16 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Adjudication of claims for disability compensation consisting of multiple issues one or more of which can be quickly adjudicated.

Sec. 3. Authority for certain individuals to sign claims filed with Secretary of Veterans Affairs on behalf of claimants.

Sec. 4. Clarification that requirement of Secretary of Veterans Affairs to provide notice to claimants of additional information and evidence required only applies when additional information or evidence is actually required.

Sec. 5. Equal deference to private medical opinions in assessing claims for disability compensation.

Sec. 6. Improvements to disability compensation claim review process.

Sec. 7. Authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal.

Sec. 8. Provision by Secretary of Veterans Affairs of notice of disagreement forms to initiate appellate review with notices of decisions of Department of Veterans Affairs.

Sec. 9. Improvement of process for filing jointly for social security and dependency and indemnity compensation.

- Sec. 10. Access by Secretary of Veterans Affairs to financial records of individuals represented by fiduciaries and receiving benefits under laws administered by Secretary.*
- Sec. 11. Treatment of certain misfiled documents as motions for reconsideration of decisions by Board of Veterans' Appeals.*
- Sec. 12. Modification of filing period for notice of disagreement to initiate appellate review of decisions of Department of Veterans Affairs.*
- Sec. 13. Provision of post-notice of disagreement decisions to claimants who file notice of disagreements.*
- Sec. 14. Modification of substantive appeal process.*
- Sec. 15. Automatic waiver of agency of original jurisdiction review of new evidence.*
- Sec. 16. Determination of location and manner of appearance for hearings.*
- Sec. 17. Decision by Court of Appeals for Veterans Claims on all issues raised by appellants.*
- Sec. 18. Good cause extension of period for filing notice of appeal with United States Court of Appeals for Veterans Claims.*
- Sec. 19. Pilot program on participation of local and tribal governments in improving quality of claims for disability compensation submitted to Department of Veterans Affairs.*
- Sec. 20. Increase in rate of pension for disabled veterans married to one another and both of whom require regular aid and attendance.*
- Sec. 21. Automatic annual increase in rates of disability compensation and dependency and indemnity compensation.*
- Sec. 22. Action plan to improve correlation between employee pay and performance.*

1 **SEC. 2. ADJUDICATION OF CLAIMS FOR DISABILITY COM-**
 2 **PENSATION CONSISTING OF MULTIPLE**
 3 **ISSUES ONE OR MORE OF WHICH CAN BE**
 4 **QUICKLY ADJUDICATED.**

5 (a) *IN GENERAL.*—Section 1157 of title 38, United
 6 States Code, is amended—

7 (1) by striking “The Secretary” and inserting
 8 the following:

9 “(a) *IN GENERAL.*—The Secretary”; and

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

12 “(b) *INTERMEDIATE ASSIGNMENT OF RATINGS.*—(1)
 13 In the case of a veteran who submits to the Secretary a

1 *claim for compensation under this chapter for more than*
 2 *one condition and the Secretary determines that a dis-*
 3 *ability rating can be assigned without further development*
 4 *for one or more conditions but not all conditions in the*
 5 *claim, the Secretary shall—*

6 “(A) *expeditiously assign a disability rating for*
 7 *the condition or conditions that the Secretary deter-*
 8 *mined could be assigned without further development;*
 9 *and*

10 “(B) *continue development of the remaining con-*
 11 *ditions.*

12 “(2) *If the Secretary is able to assign a disability rat-*
 13 *ing for a condition described in paragraph (1)(B) with re-*
 14 *spect to a claim, the Secretary shall assign such rating and*
 15 *combine such rating with the rating or ratings previously*
 16 *assigned under paragraph (1)(A) with respect to that claim.*

17 “(3) *If the Secretary determines, after assigning a rat-*
 18 *ing for a condition under paragraph (1)(A), that further*
 19 *development of the condition could result in assignment of*
 20 *a higher rating, the Secretary shall continue development*
 21 *of such condition and reassess the rating.”.*

22 (b) *EFFECTIVE DATE.—The amendments made by sub-*
 23 *section (a) shall take effect on the date of the enactment*
 24 *of this Act, and shall apply with respect to claims filed on*

1 *or after the date that is 60 days after the date of the enact-*
 2 *ment of this Act.*

3 **SEC. 3. AUTHORITY FOR CERTAIN INDIVIDUALS TO SIGN**
 4 **CLAIMS FILED WITH SECRETARY OF VET-**
 5 **ERANS AFFAIRS ON BEHALF OF CLAIMANTS.**

6 *(a) IN GENERAL.—Section 5101 of title 38, United*
 7 *States Code, is amended—*

8 *(1) in subsection (a)—*

9 *(A) by striking “A specific” and inserting*
 10 *“(1) A specific”; and*

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

13 *“(2) If an individual has not attained the age of 18*
 14 *years, is mentally incompetent, or is physically unable to*
 15 *sign a form, a form filed under paragraph (1) for the indi-*
 16 *vidual may be signed by a court appointed representative*
 17 *or a person who is responsible for the care of the individual,*
 18 *including a spouse or other relative. If the individual is*
 19 *in the care of an institution, the manager or principal offi-*
 20 *cer of the institution may sign the form.”;*

21 *(2) in subsection (c)—*

22 *(A) in paragraph (1)—*

23 *(i) by inserting “, signs a form on be-*
 24 *half of a person to apply for,” after “who*
 25 *applies for”; and*

1 (ii) by inserting “, or TIN in the case
2 that the person is not an individual,” after
3 “of such person”; and

4 (B) in paragraph (2), by inserting “or
5 TIN” after “social security number” each place
6 it appears; and

7 (3) by adding at the end the following new sub-
8 section:

9 “(d) In this section:

10 “(1) The term ‘mentally incompetent’ with re-
11 spect to an individual means that the individual
12 lacks the mental capacity—

13 “(A) to provide substantially accurate infor-
14 mation needed to complete a form; or

15 “(B) to certify that the statements made on
16 a form are true and complete.

17 “(2) The term ‘TIN’ has the meaning given the
18 term in section 7701(a)(41) of the Internal Revenue
19 Code of 1986.”.

20 (b) *APPLICABILITY.*—The amendments made by sub-
21 section (a) shall apply with respect to claims filed on or
22 after the date of the enactment of this Act.

1 **SEC. 4. CLARIFICATION THAT REQUIREMENT OF SEC-**
 2 **RETARY OF VETERANS AFFAIRS TO PROVIDE**
 3 **NOTICE TO CLAIMANTS OF ADDITIONAL IN-**
 4 **FORMATION AND EVIDENCE REQUIRED ONLY**
 5 **APPLIES WHEN ADDITIONAL INFORMATION**
 6 **OR EVIDENCE IS ACTUALLY REQUIRED.**

7 (a) *IN GENERAL.*—Section 5103(a)(1) of title 38,
 8 United States Code, is amended by striking the first sen-
 9 tence and inserting the following: “If the Secretary receives
 10 a complete or substantially complete application that does
 11 not include information or medical or lay evidence not pre-
 12 viously provided to the Secretary that is necessary to sub-
 13 stantiate the claim, the Secretary shall, upon receipt of such
 14 application, notify the claimant and the claimant’s rep-
 15 resentative, if any, that such information or evidence is nec-
 16 essary to substantiate and grant the claim.”.

17 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 18 section (a) shall take effect on the date of the enactment
 19 of this Act, and shall apply with respect to claims filed on
 20 or after the date that is 60 days after the date of the enact-
 21 ment of this Act.

22 **SEC. 5. EQUAL DEFERENCE TO PRIVATE MEDICAL OPIN-**
 23 **IONS IN ASSESSING CLAIMS FOR DISABILITY**
 24 **COMPENSATION.**

25 (a) *PROVISION OF DEFERENCE.*—

1 (1) *IN GENERAL.*—Subchapter I of chapter 51 of
 2 title 38, United States Code, is amended by inserting
 3 after section 5103A the following new section:

4 **“§5103B. Treatment of private medical opinions**

5 “(a) *IN GENERAL.*—If a claimant submits a private
 6 medical opinion in support of a claim for disability com-
 7 pensation in accordance with standards established by the
 8 Secretary, such opinion shall be treated by the Secretary
 9 with the same deference as a medical opinion provided by
 10 a Department health care provider.

11 “(b) *SUPPLEMENTAL INFORMATION.*—(1) If a private
 12 medical opinion submitted as described in subsection (a)
 13 is found by the Secretary to be competent, credible, and pro-
 14 bative, but otherwise not entirely adequate for purposes of
 15 assigning a disability rating or determining service-connec-
 16 tion and the Secretary determines a medical opinion from
 17 a Department health care provider is necessary for such
 18 purposes, the Secretary shall obtain from an appropriate
 19 Department health care provider (as determined pursuant
 20 to the standards described in subsection (a)) a medical
 21 opinion that is adequate for such purposes.

22 “(2) If a private medical opinion submitted as de-
 23 scribed in subsection (a) addresses a matter relevant to the
 24 claim described in such subsection and such matter is with-
 25 in an area of expertise of the provider of such opinion, any

1 *opinion obtained by the Secretary under paragraph (1) of*
 2 *this subsection that addresses the same matter shall, to the*
 3 *extent feasible, be obtained from a health care provider of*
 4 *the Department that has expertise in that area.*

5 “(c) *DEPARTMENT HEALTH CARE PROVIDER DE-*
 6 *FINED.*—*In this section, the term ‘Department health care*
 7 *provider’ includes a provider of health care who provides*
 8 *health care under contract with the Department.”.*

9 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 10 *tions at the beginning of chapter 51 of such title is*
 11 *amended by inserting after the item relating to sec-*
 12 *tion 5103A the following new item:*

“5103B. Treatment of private medical opinions.”.

13 (3) *EFFECTIVE DATE.*—*Section 5103B of such*
 14 *title, as added by paragraph (1), shall take effect on*
 15 *the date of the enactment of this Act, and shall apply*
 16 *with respect to claims pending or filed on or after the*
 17 *date that is 270 days after the date of the enactment*
 18 *of this Act.*

19 (b) *NOTICE.*—

20 (1) *IN GENERAL.*—*Section 5103(a) of such title*
 21 *is amended by adding at the end the following new*
 22 *paragraph:*

23 “(3) *A notice provided under this subsection shall in-*
 24 *form a claimant, as the Secretary considers appropriate*
 25 *with respect to the claimant’s claim—*

1 “(A) of the rights of the claimant to assistance
2 under section 5103A of this title; and

3 “(B) if the claimant submits a private medical
4 opinion in support of a claim for disability com-
5 pensation, how such medical opinion will be treated
6 under section 5103B of this title.”.

7 (2) *EFFECTIVE DATE.*—Paragraph (3) of such
8 section 5103(a), as added by paragraph (1), shall take
9 effect on the date that is 270 days after the date of
10 the enactment of this Act.

11 **SEC. 6. IMPROVEMENTS TO DISABILITY COMPENSATION**

12 **CLAIM REVIEW PROCESS.**

13 (a) *ESTABLISHMENT OF FAST TRACK CLAIM REVIEW*
14 *PROCESS.*—

15 (1) *IN GENERAL.*—Subchapter I of chapter 51 of
16 title 38, United States Code, is amended by inserting
17 after section 5103B, as added by section 5 of this Act,
18 the following new section:

19 **“§5103C. Expedited review of claims for disability**
20 **compensation**

21 “(a) *PROCESS REQUIRED.*—The Secretary shall estab-
22 lish a process for the rapid identification of initial claims
23 for disability compensation that should, in the adjudication
24 of such claims, receive priority in the order of review.

1 “(b) *REVIEW OF INITIAL CLAIMS.*—As part of the proc-
 2 ess required by subsection (a), the Secretary shall assign
 3 employees of the Department who are experienced in the
 4 processing of claims for disability compensation to carry
 5 out a preliminary review of all initial claims for disability
 6 compensation submitted to the Secretary in order to iden-
 7 tify whether—

8 “(1) the claims have the potential of being adju-
 9 dicated quickly;

10 “(2) the claims qualify for priority treatment
 11 under paragraph (2) of subsection (c); and

12 “(3) a temporary disability rating could be as-
 13 signed with respect to the claims under section 1156
 14 of this title.

15 “(c) *PRIORITY IN ADJUDICATION OF CLAIMS.*—(1) Ex-
 16 cept as provided in paragraph (2), the Secretary shall, in
 17 the adjudication of claims for disability compensation sub-
 18 mitted to the Secretary, give priority in the order of review
 19 of such claims to claims identified under subsection (b)(1)
 20 as having the potential of being adjudicated quickly.

21 “(2) The Secretary may, under regulations the Sec-
 22 retary shall prescribe, provide priority in the order of re-
 23 view of claims for disability compensation.”.

24 (2) *CLERICAL AMENDMENT.*—The table of sec-
 25 tions at the beginning of chapter 51 of such title is

1 amended by inserting after the item relating to sec-
 2 tion 5103B, as so added, the following new item:

“5103C. *Expedited review of claims for disability compensation.*”.

3 (3) *EFFECTIVE DATE.*—Section 5103C of such
 4 title, as added by paragraph (1), shall take effect on
 5 the date that is 90 days after the date of the enact-
 6 ment of this Act.

7 (b) *AUTHORITY FOR CLAIMANTS TO END DEVELOP-*
 8 *MENT OF CLAIMS.*—

9 (1) *IN GENERAL.*—Such subchapter is further
 10 amended by inserting after section 5103C, as added
 11 by subsection (a), the following new section:

12 **“§ 5103D. Procedures for fully developed claims**

13 “Upon notification received from a claimant that the
 14 claimant has no additional information or evidence to sub-
 15 mit, the Secretary may determine that the claim is a fully
 16 developed claim. The Secretary shall then undertake any
 17 development necessary for any Federal records, medical ex-
 18 aminations, or opinions relevant to the claim and may de-
 19 cide the claim based on all the evidence of record.”.

20 (2) *CLERICAL AMENDMENT.*—The table of sec-
 21 tions at the beginning of chapter 51 of such title is
 22 amended by inserting after the item relating to sec-
 23 tion 5103C, as added by subsection (a), the following
 24 new item:

“5103D. *Procedures for fully developed claims.*”.

1 (3) *EFFECTIVE DATE*.—Section 5103D of such
 2 title, as added by paragraph (1), shall take effect on
 3 the date of the enactment of this Act.

4 **SEC. 7. AUTHORITY FOR RETROACTIVE EFFECTIVE DATE**
 5 **FOR AWARDS OF DISABILITY COMPENSATION**
 6 **IN CONNECTION WITH APPLICATIONS THAT**
 7 **ARE FULLY-DEVELOPED AT SUBMITTAL.**

8 Section 5110(b) of title 38, United States Code, is
 9 amended—

10 (1) by redesignating paragraphs (2) and (3) as
 11 paragraphs (3) and (4); and

12 (2) by inserting after paragraph (1) the fol-
 13 lowing new paragraph (2):

14 “(2) *The effective date of an award of disability com-*
 15 *pensation to a veteran who submits an application therefor*
 16 *that sets forth a claim that is fully-developed (as prescribed*
 17 *by the Secretary for purposes of this paragraph) as of the*
 18 *date of submittal shall be fixed in accordance with the facts*
 19 *found, but shall not be earlier than the date that is one*
 20 *year before the date of receipt of the application.”.*

1 **SEC. 8. PROVISION BY SECRETARY OF VETERANS AFFAIRS**
 2 **OF NOTICE OF DISAGREEMENT FORMS TO**
 3 **INITIATE APPELLATE REVIEW WITH NOTICES**
 4 **OF DECISIONS OF DEPARTMENT OF VET-**
 5 **ERANS AFFAIRS.**

6 (a) *IN GENERAL.*—Section 5104 of title 38, United
 7 States Code, is amended—

8 (1) *in subsection (a), by striking the second sen-*
 9 *tence; and*

10 (2) *in subsection (b), by striking “also include*
 11 *(1) a” and all that follows and inserting the fol-*
 12 *lowing: “include the following:*

13 “(1) *A statement of the reasons for the decision.*

14 “(2) *A summary of the evidence relied upon by*
 15 *the Secretary in making the decision.*

16 “(3) *An explanation of the procedure for obtain-*
 17 *ing review of the decision, including the period pre-*
 18 *scribed under paragraph (1) of section 7105(b) of this*
 19 *title and the good cause exception under paragraph*
 20 *(3) of such section.*

21 “(4) *A form that, once completed, can serve as*
 22 *a notice of disagreement under section 7105(a) of this*
 23 *title.”.*

24 (b) *CONSULTATION.*—*In developing the form required*
 25 *by subsection (b)(4) of such section, as added by subsection*
 26 *(a), the Secretary of Veterans Affairs may consult with vet-*

1 *erans service organizations and such other organizations as*
 2 *the Secretary considers appropriate.*

3 *(c) EFFECTIVE DATE.—The amendments made by sub-*
 4 *section (a) shall take effect on the date that is 180 days*
 5 *after the date of the enactment of this Act.*

6 **SEC. 9. IMPROVEMENT OF PROCESS FOR FILING JOINTLY**
 7 **FOR SOCIAL SECURITY AND DEPENDENCY**
 8 **AND INDEMNITY COMPENSATION.**

9 *Section 5105 of title 38, United States Code, is amend-*
 10 *ed—*

11 *(1) in subsection (a)—*

12 *(A) by striking “shall” and inserting*
 13 *“may”; and*

14 *(B) by striking “Each such form” and in-*
 15 *serting “Such forms”; and*

16 *(2) in subsection (b), by striking “on such a*
 17 *form” and inserting “on any form indicating an in-*
 18 *tent to apply for survivor benefits”.*

19 **SEC. 10. ACCESS BY SECRETARY OF VETERANS AFFAIRS TO**
 20 **FINANCIAL RECORDS OF INDIVIDUALS REP-**
 21 **RESENTED BY FIDUCIARIES AND RECEIVING**
 22 **BENEFITS UNDER LAWS ADMINISTERED BY**
 23 **SECRETARY.**

24 *Section 5502 of title 38, United States Code, is amend-*
 25 *ed by adding at the end the following new subsection:*

1 “(f)(1) *The Secretary may require any person ap-*
 2 *pointed or recognized as a fiduciary for a Department bene-*
 3 *ficiary under this section to provide authorization for the*
 4 *Secretary to obtain (subject to the cost reimbursement re-*
 5 *quirements of section 1115(a) of the Right to Financial Pri-*
 6 *vacy Act of 1978 (12 U.S.C. 3415)) from any financial in-*
 7 *stitution any financial record held by the institution with*
 8 *respect to the fiduciary or the beneficiary whenever the Sec-*
 9 *retary determines that the financial record is necessary—*

10 “(A) *for the administration of a program ad-*
 11 *ministered by the Secretary; or*

12 “(B) *in order to safeguard the beneficiary’s bene-*
 13 *fits against neglect, misappropriation, misuse, embez-*
 14 *zlement, or fraud.*

15 “(2) *Notwithstanding section 1104(a)(1) of such Act*
 16 *(12 U.S.C. 3404(a)(1)), an authorization provided by a fi-*
 17 *ducary under paragraph (1) with respect to a beneficiary*
 18 *shall remain effective until the earliest of—*

19 “(A) *the approval by a court or the Secretary of*
 20 *a final accounting of payment of benefits under any*
 21 *law administered by the Secretary to a fiduciary on*
 22 *behalf of such beneficiary;*

23 “(B) *in the absence of any evidence of neglect,*
 24 *misappropriation, misuse, embezzlement, or fraud, the*

1 *express revocation by the fiduciary of the authoriza-*
2 *tion in a written notification to the Secretary; or*

3 *“(C) the date that is three years after the date*
4 *of the authorization.*

5 *“(3)(A) An authorization obtained by the Secretary*
6 *pursuant to this subsection shall be considered to meet the*
7 *requirements of the Right to Financial Privacy Act of 1978*
8 *(12 U.S.C. 3401 et seq.) for purposes of section 1103(a) of*
9 *such Act (12 U.S.C. 3403(a)), and need not be furnished*
10 *to the financial institution, notwithstanding section*
11 *1104(a) of such Act (12 U.S.C. 3404(a)), if the Secretary*
12 *provides a copy of the authorization to the financial institu-*
13 *tion.*

14 *“(B) The certification requirements of section 1103(b)*
15 *of such Act (12 U.S.C. 3403(b)) shall not apply to requests*
16 *by the Secretary pursuant to an authorization provided*
17 *under this subsection.*

18 *“(C) A request for a financial record by the Secretary*
19 *pursuant to an authorization provided by a fiduciary*
20 *under this subsection is deemed to meet the requirements*
21 *of section 1104(a)(3) of such Act (12 U.S.C. 3404(a)(3))*
22 *and the matter in section 1102 of such Act (12 U.S.C. 3402)*
23 *that precedes paragraph (1) of such section if such request*
24 *identifies the fiduciary and the beneficiary concerned.*

1 “(D) *The Secretary shall inform any person who pro-*
2 *vides authorization under this subsection of the duration*
3 *and scope of the authorization.*

4 “(E) *If a fiduciary of a Department beneficiary refuses*
5 *to provide, or revokes, any authorization to permit the Sec-*
6 *retary to obtain from any financial institution any finan-*
7 *cial record concerning benefits paid by the Secretary for*
8 *such beneficiary, the Secretary may, on that basis, revoke*
9 *the appointment or the recognition of the fiduciary for such*
10 *beneficiary and for any other Department beneficiary for*
11 *whom such fiduciary has been appointed or recognized. If*
12 *the appointment or recognition of a fiduciary is revoked,*
13 *benefits may be paid as provided in subsection (d).*

14 “(4) *For purposes of section 1113(d) of such Act (12*
15 *U.S.C. 3413(d)), a disclosure pursuant to this subsection*
16 *shall be considered a disclosure pursuant to a Federal stat-*
17 *ute.*

18 “(5) *In this subsection:*

19 “(A) *The term ‘fiduciary’ includes any person*
20 *appointed or recognized to receive payment of benefits*
21 *under any law administered by the Secretary on be-*
22 *half of a Department beneficiary.*

23 “(B) *The term ‘financial institution’ has the*
24 *meaning given such term in section 1101 of such Act*
25 *(12 U.S.C. 3401), except that such term shall also in-*

1 *clude any benefit association, insurance company,*
 2 *safe deposit company, money market mutual fund, or*
 3 *similar entity authorized to do business in any State.*

4 *“(C) The term ‘financial record’ has the meaning*
 5 *given such term in such section.”.*

6 **SEC. 11. TREATMENT OF CERTAIN MISFILED DOCUMENTS**
 7 **AS MOTIONS FOR RECONSIDERATION OF DE-**
 8 **CISIONS BY BOARD OF VETERANS’ APPEALS.**

9 *Section 7103 of title 38, United States Code, is amend-*
 10 *ed—*

11 *(1) by redesignating subsection (c) as subsection*
 12 *(d); and*

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

15 *“(c)(1) Except as provided in paragraph (2), if a per-*
 16 *son adversely affected by a final decision of the Board, who*
 17 *has not filed a notice of appeal with the United States*
 18 *Court of Appeals for Veterans Claims under section 7266(a)*
 19 *of this title within the period set forth in that section, files*
 20 *a document with the Board or the agency of original juris-*
 21 *diction referred to in section 7105(b)(1) of this title that*
 22 *expresses disagreement with such decision not later than*
 23 *120 days after the date of such decision, such document*
 24 *shall be treated as a motion for reconsideration of such deci-*
 25 *sion under subsection (a).*

1 “(2) *A document described in paragraph (1) shall not*
 2 *be treated as a motion for reconsideration of the decision*
 3 *under paragraph (1) if—*

4 “(A) *the Board or the agency of original juris-*
 5 *diction referred to in paragraph (1)—*

6 “(i) *receives the document described in*
 7 *paragraph (1);*

8 “(ii) *determines that such document ex-*
 9 *presses an intent to appeal the decision to the*
 10 *United States Court of Appeals for Veterans*
 11 *Claims; and*

12 “(iii) *forwards such document to the United*
 13 *States Court of Appeals for Veterans Claims; and*

14 “(B) *the United States Court of Appeals for Vet-*
 15 *erans Claims receives such document within the pe-*
 16 *riod set forth by section 7266(a) of this title.”.*

17 **SEC. 12. MODIFICATION OF FILING PERIOD FOR NOTICE OF**
 18 **DISAGREEMENT TO INITIATE APPELLATE RE-**
 19 **VIEW OF DECISIONS OF DEPARTMENT OF**
 20 **VETERANS AFFAIRS.**

21 (a) *FILING OF NOTICE OF DISAGREEMENT BY CLAIM-*
 22 *ANTS.—*

23 (1) *IN GENERAL.—Paragraph (1) of section*
 24 *7105(b) of title 38, United States Code, is amended—*

1 (A) by striking “one year” and inserting
2 “180 days” in the first sentence; and

3 (B) by striking “one-year” and inserting
4 “180-day” in the third sentence.

5 (2) *ELECTRONIC FILING*.—Such paragraph is
6 further amended by inserting “or transmitted by elec-
7 tronic means” after “postmarked”.

8 (3) *GOOD CAUSE EXCEPTION FOR UNTIMELY FIL-*
9 *ING OF NOTICES OF DISAGREEMENT*.—Such section
10 7105(b) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(3)(A) A notice of disagreement not filed within the
13 time prescribed by paragraph (1) shall be treated by the
14 Secretary as timely filed if—

15 “(i) the Secretary determines that the claimant,
16 legal guardian, or other accredited representative, at-
17 torney, or authorized agent filing the notice had good
18 cause for the lack of filing within such time; and

19 “(ii) the notice of disagreement is filed not later
20 than 186 days after the period prescribed by para-
21 graph (1).

22 “(B) For purposes of this paragraph, good cause shall
23 include the following:

24 “(i) Circumstances relating to any physical,
25 mental, educational, or linguistic limitation of the

1 *claimant, legal guardian, representative, attorney, or*
2 *authorized agent concerned (including lack of facility*
3 *with the English language).*

4 *“(ii) Circumstances relating to significant delay*
5 *in the delivery of the initial decision or of the notice*
6 *of disagreement caused by natural disaster or factors*
7 *relating to geographic location.*

8 *“(iii) A change in financial circumstances, in-*
9 *cluding the payment of medical expenses or other*
10 *changes in income or net worth that are considered*
11 *in determining eligibility for benefits and services on*
12 *an annualized basis for purposes of needs-based bene-*
13 *fits under chapters 15 and 17 of this title.”.*

14 *(b) APPLICATION BY DEPARTMENT FOR REVIEW ON*
15 *APPEAL.—Section 7106 of such title is amended in the first*
16 *sentence by striking “one-year period described in section*
17 *7105” and inserting “period described in section*
18 *7105(b)(1)”.*

19 *(c) EFFECTIVE DATE.—The amendments made by this*
20 *section shall take effect on the date that is 180 days after*
21 *the date of the enactment of this Act, and shall apply with*
22 *respect to claims filed on or after the date of the enactment*
23 *of this Act.*

1 **SEC. 13. PROVISION OF POST-NOTICE OF DISAGREEMENT**
2 **DECISIONS TO CLAIMANTS WHO FILE NOTICE**
3 **OF DISAGREEMENTS.**

4 (a) *IN GENERAL.*—Section 7105 of title 38, United
5 States Code, is amended—

6 (1) *by striking “statement of the case” each place*
7 *it appears and inserting “post-notice of disagreement*
8 *decision”;* and

9 (2) *in subsection (d)—*

10 (A) *in paragraph (1), by striking subpara-*
11 *graphs (A) through (C) and inserting the fol-*
12 *lowing new subparagraphs:*

13 “(A) *A description of the specific facts in the*
14 *case that support the agency’s decision, including, if*
15 *applicable, an assessment as to the credibility of any*
16 *lay evidence pertinent to the issue or issues with*
17 *which disagreement has been expressed.*

18 “(B) *A citation to pertinent laws and regula-*
19 *tions that support the agency’s decision.*

20 “(C) *A statement that addresses each issue and*
21 *provides the reasons why the evidence relied upon*
22 *supports the conclusions of the agency under the spe-*
23 *cific laws and regulations applied.*

24 “(D) *The date by which a substantive appeal*
25 *must be filed in order to obtain further review of the*
26 *decision.*

1 “(E) *The rights of the claimant under subsection*
 2 *(f).’; and*

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

5 “(6) *The post-notice of disagreement decision shall be*
 6 *written in plain language.’.*

7 (b) *CONFORMING AMENDMENT.*—Section 7105A of
 8 *such title is amended by striking “statement of the case”*
 9 *each place it appears and inserting “post-notice of disagree-*
 10 *ment decision”.*

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 12 *section shall take effect on the date that is 180 days after*
 13 *the date of the enactment of this Act, and shall apply with*
 14 *respect to notices of disagreements filed on or after the date*
 15 *that is 180 days after the date of the enactment of this Act.*

16 **SEC. 14. MODIFICATION OF SUBSTANTIVE APPEAL PROC-**
 17 **ESS.**

18 (a) *IN GENERAL.*—Section 7105 of title 38, United
 19 *States Code, is amended—*

20 (1) *in subsection (d), as amended by section 13*
 21 *of this Act—*

22 (A) *in paragraph (3), by striking “The*
 23 *claimant will be afforded” and all that follows*
 24 *through the end of the paragraph;*

25 (B) *by striking paragraphs (4) and (5); and*

1 (C) by redesignating paragraph (6) as
2 paragraph (4); and

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

5 “(e)(1) A claimant shall be afforded a period of 60
6 days from the date the post-notice of disagreement decision
7 is mailed under subsection (d) to file a substantive appeal.

8 “(2)(A) The period under paragraph (1) may be ex-
9 tended for an additional 60 days for good cause shown on
10 a request for such extension submitted in writing within
11 such period.

12 “(B) For purposes of this paragraph, good cause shall
13 include the following:

14 “(i) Circumstances relating to any physical,
15 mental, educational, or linguistic limitation of the
16 claimant, legal guardian, or other accredited rep-
17 resentative, attorney, or authorized agent filing the
18 request (including lack of facility with the English
19 language).

20 “(ii) Circumstances relating to significant delay
21 in the delivery of the initial decision or of the notice
22 of disagreement caused by natural disaster or factors
23 relating to geographic location.

24 “(iii) A change in financial circumstances, in-
25 cluding the payment of medical expenses or other

1 *changes in income or net worth that are considered*
2 *in determining eligibility for benefits and services on*
3 *an annualized basis for purposes of needs-based bene-*
4 *fits under chapters 15 and 17 of this title.*

5 “(3) *A substantive appeal under this subsection shall*
6 *identify the particular determination or determinations*
7 *being appealed and allege specific errors of fact or law made*
8 *by the agency of original jurisdiction in each determination*
9 *being appealed.*

10 “(4) *A claimant in any case under this subsection may*
11 *not be presumed to agree with any statement of fact con-*
12 *tained in the post-notice of disagreement decision to which*
13 *the claimant does not specifically express disagreement.*

14 “(5) *If the claimant does not file a substantive appeal*
15 *in accordance with the provisions of this chapter within*
16 *the period afforded under paragraphs (1) and (2), as the*
17 *case may be, the agency of original jurisdiction shall dis-*
18 *miss the appeal and notify the claimant of the dismissal.*
19 *The notice shall include an explanation of the procedure*
20 *for obtaining review of the dismissal by the Board of Vet-*
21 *erans’ Appeals.*

22 “(6) *In order to obtain review by the Board of a dis-*
23 *missal of an appeal by the agency of original jurisdiction,*
24 *a claimant shall file a request for such review with the*
25 *Board within the 60-day period beginning on the date on*

1 *which notice of the dismissal is mailed pursuant to para-*
 2 *graph (5).*

3 “(7) *If a claimant does not file a request for review*
 4 *by the Board in accordance with paragraph (6) within the*
 5 *prescribed period or if such a request is timely filed and*
 6 *the Board affirms the dismissal of the appeal, the deter-*
 7 *mination of the agency of original jurisdiction regarding*
 8 *the claim for benefits under this title shall become final and*
 9 *the claim may not thereafter be reopened or allowed, except*
 10 *as may otherwise be provided by regulations not incon-*
 11 *sistent with this title.*

12 “(8) *If an appeal is not dismissed by the agency of*
 13 *original jurisdiction, the Board may nonetheless dismiss*
 14 *any appeal which is—*

15 “(A) *untimely; or*

16 “(B) *fails to allege specific error of fact or law*
 17 *in the determination being appealed.”.*

18 (b) *EFFECTIVE DATE.—The amendments made by sub-*
 19 *section (a) shall take effect on the date of the enactment*
 20 *of this Act, and shall apply with respect to claims filed on*
 21 *or after the date that is 180 days after the date of the enact-*
 22 *ment of this Act.*

1 **SEC. 15. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL JU-**
2 **RISDICTION REVIEW OF NEW EVIDENCE.**

3 (a) *IN GENERAL.*—Section 7105 of title 38, United
4 States Code, as amended by section 14 of this Act, is further
5 amended by adding at the end the following new subsection:

6 “(f) *If, either at the time or after the agency of original*
7 *jurisdiction receives a substantive appeal, the claimant or*
8 *the claimant’s representative, if any, submits evidence to*
9 *either the agency of original jurisdiction or the Board of*
10 *Veterans’ Appeals for consideration in connection with the*
11 *issue or issues with which disagreement has been expressed,*
12 *such evidence shall be subject to initial review by the Board*
13 *unless the claimant or the claimant’s representative, as the*
14 *case may be, requests in writing that the agency of original*
15 *jurisdiction initially review such evidence. Such request for*
16 *review shall accompany the submittal of the evidence or be*
17 *made within 30 days of the submittal.”.*

18 (b) *EFFECTIVE DATE.*—Subsection (f) of such section,
19 as added by subsection (a), shall take effect on the date that
20 is 180 days after the date of the enactment of this Act, and
21 shall apply with respect to claims for which a substantive
22 appeal is filed on or after the date that is 180 days after
23 the date of the enactment of this Act.

1 **SEC. 16. DETERMINATION OF LOCATION AND MANNER OF**
 2 **APPEARANCE FOR HEARINGS.**

3 (a) *LOCATION*.—Subsection (d)(1) of section 7107 of
 4 title 38, United States Code, is amended by striking “An
 5 appellant” and all that follows through the end and insert-
 6 ing the following: “Upon request by an appellant for a hear-
 7 ing before the Board, the Board shall present the appellant
 8 with the following:

9 “(A) The option of holding the hearing at—

10 “(i) the Board’s principal location; or

11 “(ii) a facility of the Department located
 12 within the area served by a regional office of the
 13 Department.

14 “(B) A recommendation as to the option pre-
 15 sented under subparagraph (A) that would lead to the
 16 earliest possible date for the hearing, including with
 17 respect to the use of facilities and equipment under
 18 subsection (e).

19 “(C) Statistics on the average wait experienced
 20 by similarly situated appellants for hearings at either
 21 option presented under subparagraph (A).”.

22 (b) *MANNER*.—Subsection (e)(2) of such section is
 23 amended—

24 (1) by striking “When such” and inserting “(A)
 25 When such”;

1 (2) by striking “Any such” and inserting the fol-
 2 lowing:

3 “(B) Any such”;

4 (3) by striking “If the appellant” and inserting
 5 the following:

6 “(D) If the appellant”;

7 (4) by inserting after subparagraph (B), as des-
 8 ignated by paragraph (2), the following new subpara-
 9 graph (C):

10 “(C) In affording the appellant an opportunity under
 11 subparagraph (A), the Board shall inform the appellant of
 12 the advantages and disadvantages of participating in a
 13 hearing through the use of such facilities and equipment.”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
 15 section shall take effect on the date that is 180 days after
 16 the date of the enactment of this Act, and shall apply with
 17 respect to requests for hearings filed on or after the date
 18 that is 180 days after the date of the enactment of this Act.

19 **SEC. 17. DECISION BY COURT OF APPEALS FOR VETERANS**
 20 **CLAIMS ON ALL ISSUES RAISED BY APPEL-**
 21 **LANTS.**

22 Section 7261 of title 38, United States Code, is amend-
 23 ed—

24 (1) in subsection (a), in the matter before para-
 25 graph (1), by striking “, to the extent necessary to its

1 *decision and when presented, shall” and inserting*
 2 *“shall, when presented”;*

3 *(2) by redesignating subsections (c) and (d) as*
 4 *subsections (d) and (e), respectively; and*

5 *(3) by inserting after subsection (b) the following*
 6 *new subsection (c):*

7 *“(c) In carrying out a review of a decision of the*
 8 *Board of Veterans’ Appeals, the Court shall render a deci-*
 9 *sion on every issue raised by an appellant within the extent*
 10 *set forth in this section.”.*

11 **SEC. 18. GOOD CAUSE EXTENSION OF PERIOD FOR FILING**

12 **NOTICE OF APPEAL WITH UNITED STATES**

13 **COURT OF APPEALS FOR VETERANS CLAIMS.**

14 *(a) IN GENERAL.—Section 7266 of title 38, United*
 15 *States Code, is amended—*

16 *(1) by redesignating subsections (b), (c), and (d)*
 17 *as subsections (c), (d), and (e), respectively;*

18 *(2) by inserting after subsection (a) the following*
 19 *new subsection (b):*

20 *“(b)(1) The Court may extend the initial period for*
 21 *the filing of a notice of appeal set forth in subsection (a)*
 22 *for an additional period not to exceed 120 days from the*
 23 *expiration of such initial period upon a motion—*

24 *“(A) filed with the Court not later than 120 days*
 25 *after the expiration of such initial period; and*

1 “(B) showing good cause for such extension.

2 “(2) If a motion for extension under paragraph (1)
3 is filed after expiration of the initial period for the filing
4 of a notice of appeal set forth in subsection (a), the notice
5 of appeal shall be filed concurrently with, or prior to, the
6 filing of the motion.”; and

7 (3) in subsection (e), as redesignated by para-
8 graph (1), by striking “subsection (c)(2)” and insert-
9 ing “subsection (d)(2)”.

10 (b) *EFFECTIVE DATE.*—The amendments made by sub-
11 section (a) shall take effect on the date of the enactment
12 of this Act and shall apply with respect to notices of appeal
13 filed on or after the date of the enactment of this Act.

14 **SEC. 19. PILOT PROGRAM ON PARTICIPATION OF LOCAL**
15 **AND TRIBAL GOVERNMENTS IN IMPROVING**
16 **QUALITY OF CLAIMS FOR DISABILITY COM-**
17 **PENSATION SUBMITTED TO DEPARTMENT OF**
18 **VETERANS AFFAIRS.**

19 (a) *PILOT PROGRAM REQUIRED.*—The Secretary of
20 Veterans Affairs shall carry out a pilot program to assess
21 the feasibility and advisability of entering into memoran-
22 dums of understanding with local governments and tribal
23 organizations—

1 (1) *to improve the quality of claims submitted to*
 2 *the Secretary for compensation under chapter 11 of*
 3 *title 38, United States Code; and*

4 (2) *to provide assistance to veterans who may be*
 5 *eligible for such compensation in submitting such*
 6 *claims.*

7 (b) *MINIMUM NUMBER OF PARTICIPATING TRIBAL OR-*
 8 *GANIZATIONS.—In carrying out the pilot program required*
 9 *by subsection (a), the Secretary shall enter into memoran-*
 10 *dums of understanding with at least two tribal organiza-*
 11 *tions.*

12 (c) *TRIBAL ORGANIZATION DEFINED.—In this section,*
 13 *the term “tribal organization” has the meaning given that*
 14 *term in section 3765 of title 38, United States Code.*

15 **SEC. 20. INCREASE IN RATE OF PENSION FOR DISABLED**
 16 **VETERANS MARRIED TO ONE ANOTHER AND**
 17 **BOTH OF WHOM REQUIRE REGULAR AID AND**
 18 **ATTENDANCE.**

19 (a) *IN GENERAL.—Section 1521(f)(2) of title 38,*
 20 *United States Code, is amended by striking “\$30,480” and*
 21 *inserting “\$31,305”.*

22 (b) *EFFECTIVE DATE.—The amendment made by sub-*
 23 *section (a) shall take effect on the date of the enactment*
 24 *of this Act.*

1 **SEC. 21. AUTOMATIC ANNUAL INCREASE IN RATES OF DIS-**
 2 **ABILITY COMPENSATION AND DEPENDENCY**
 3 **AND INDEMNITY COMPENSATION.**

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

7 “(d)(1) Whenever there is an increase in benefit
 8 amounts payable under title II of the Social Security Act
 9 (42 U.S.C. 401 et seq.) as a result of a determination made
 10 under section 215(i) of such Act (42 U.S.C. 415(i)), the Sec-
 11 retary shall, effective on the date of such increase in benefit
 12 amounts, increase the dollar amounts in effect for the pay-
 13 ment of disability compensation and dependency and in-
 14 demnity compensation by the Secretary, as specified in
 15 paragraph (2), as such amounts were in effect immediately
 16 before the date of such increase in benefit amounts payable
 17 under title II of the Social Security Act, by the same per-
 18 centage as the percentage by which such benefit amounts
 19 are increased.

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

22 “(A) *COMPENSATION.*—Each of the dollar
 23 amounts in effect under section 1114 of this title.

24 “(B) *ADDITIONAL COMPENSATION FOR DEPEND-*
 25 *ENTS.*—Each of the dollar amounts in effect under
 26 section 1115(1) of this title.

1 “(C) *CLOTHING ALLOWANCE.*—*The dollar*
2 *amount in effect under section 1162 of this title.*

3 “(D) *NEW DIC RATES.*—*Each of the dollar*
4 *amounts in effect under paragraphs (1) and (2) of*
5 *section 1311(a) of this title.*

6 “(E) *OLD DIC RATES.*—*Each of the dollar*
7 *amounts in effect under section 1311(a)(3) of this*
8 *title.*

9 “(F) *ADDITIONAL DIC FOR SURVIVING SPOUSES*
10 *WITH MINOR CHILDREN.*—*The dollar amount in effect*
11 *under section 1311(b) of this title.*

12 “(G) *ADDITIONAL DIC FOR DISABILITY.*—*Each of*
13 *the dollar amounts in effect under sections 1311(c)*
14 *and 1311(d) of this title.*

15 “(H) *DIC FOR DEPENDENT CHILDREN.*—*Each of*
16 *the dollar amounts in effect under sections 1313(a)*
17 *and 1314 of this title.*

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

1 *lished by reason of a determination under section 215(i)*
 2 *of such Act (42 U.S.C. 415(i)).”.*

3 *(b) EFFECTIVE DATE.—Subsection (d) of section 5312*
 4 *of title 38, United States Code, as added by subsection (a)*
 5 *of this section, shall take effect on the first day of the first*
 6 *calendar year that begins after the date of the enactment*
 7 *of this Act.*

8 **SEC. 22. ACTION PLAN TO IMPROVE CORRELATION BE-**
 9 **TWEEN EMPLOYEE PAY AND PERFORMANCE.**

10 *(a) IN GENERAL.—Not later than 90 days after the*
 11 *date of the enactment of this Act, the Secretary of Veterans*
 12 *Affairs shall, in consultation with the Director of the Office*
 13 *of Personnel Management, submit to Congress an action*
 14 *plan for improving the correlation between the pay, ad-*
 15 *vancement, and rewards of employees of the Department of*
 16 *Veterans Affairs with their job performance, particularly*
 17 *with respect to employees who perform work in relation to*
 18 *processing and adjudicating claims for compensation under*
 19 *chapter 11 or 13 of title 38, United States Code.*

20 *(b) ELEMENTS.—The action plan required by sub-*
 21 *section (a) shall include the following:*

22 *(1) Specific objectives, planned actions, metrics*
 23 *for measuring improvements, and methods for track-*
 24 *ing progress.*

1 (2) *Such legislative changes as the Secretary con-*
2 *siders necessary to enhance the capacity of the De-*
3 *partment to improve the correlation described in sub-*
4 *section (a).*

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[Report No. 111-354]

A BILL

To amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes.

NOVEMBER 29, 2010

Reported with an amendment