

113TH CONGRESS
1ST SESSION

H. R. 1405

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2013

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to include a notice of disagreement form in any notice of decision issued for the denial of a benefit sought, to improve the supervision of fiduciaries of veterans under the laws administered by the Secretary 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,*

3 **SECTION 1. INCLUSION OF NOTICE OF DISAGREEMENT**
4 **FORMS IN NOTICES OF DECISIONS OF BENE-**
5 **FITS DENIALS ISSUED BY SECRETARY OF**
6 **VETERANS AFFAIRS.**

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

9 (1) by striking “and (2)” and inserting “(2)”;
10 and

11 (2) by inserting before the period at the end the
12 following: “, and (3) a form that may be used to file
13 a notice of disagreement to the decision”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply with respect to decisions made
16 by the Secretary under section 511 of title 38, United
17 States Code, on or after the date of the enactment of this
18 Act.

19 **SEC. 2. PROVISION OF STATUS UNDER LAW BY HONORING**
20 **CERTAIN MEMBERS OF THE RESERVE COM-**
21 **PONENTS AS VETERANS.**

22 (a) VETERAN STATUS.—

23 (1) IN GENERAL.—Chapter 1 of title 38, United
24 States Code, is amended by inserting after section
25 107 the following new section:

1 **“§ 107A. Honoring as veterans certain persons who**
 2 **performed service in the reserve compo-**
 3 **nents**

4 “Any person who is entitled under chapter 1223 of
 5 title 10 to retired pay for nonregular service or, but for
 6 age, would be entitled under such chapter to retired pay
 7 for nonregular service shall be honored as a veteran but
 8 shall not be entitled to any benefit by reason of this sec-
 9 tion.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
 11 tions at the beginning of such chapter is amended
 12 by inserting after the item relating to section 107
 13 the following new item:

“107A. Honoring as veterans certain persons who performed service in the re-
 serve components.”.

14 (b) CLARIFICATION REGARDING BENEFITS.—No
 15 person may receive any benefit under the laws adminis-
 16 tered by the Secretary of Veterans Affairs solely by reason
 17 of section 107A of title 38, United States Code, as added
 18 by subsection (a).

19 **SEC. 3. PROVISION OF ACCESS TO CASE-TRACKING INFOR-**
 20 **MATION.**

21 (a) IN GENERAL.—Chapter 59 of title 38, United
 22 States Code, is amended by adding at the end the fol-
 23 lowing:

1 **“§ 5906. Provision of access to case-tracking informa-**
2 **tion**

3 “(a) IN GENERAL.—(1) In accordance with sub-
4 section (b), the Secretary shall provide a covered employee
5 with access to the case-tracking system to provide a vet-
6 eran with information regarding the status of a claim sub-
7 mitted by such veteran if such employee is acting under
8 written permission or a power of attorney executed by
9 such veteran.

10 “(2) In providing a covered employee with access to
11 the case-tracking system under paragraph (1), the Sec-
12 retary shall ensure—

13 “(A) that such access—

14 “(i) is provided in a manner that does not
15 allow such employee to modify the data con-
16 tained in such system; and

17 “(ii) does not include access to medical
18 records; and

19 “(B) that each time a covered employee ac-
20 cesses such system, the employee must certify that
21 such access is for official purposes only.

22 “(b) PRIVACY CERTIFICATION COURSE.—The Sec-
23 retary may not provide a covered employee with access to
24 the case-tracking system under subsection (a)(1) unless
25 the covered employee has successfully completed a certifi-
26 cation course on privacy issues provided by the Secretary.

1 “(c) TREATMENT OF DISCLOSURE.—The access to
 2 information by a covered employee pursuant to subsection
 3 (a)(1) shall be deemed to be—

4 “(1) a covered disclosure under section 552a(b)
 5 of title 5; and

6 “(2) a permitted disclosure under regulations
 7 promulgated under section 264(c) of the Health In-
 8 surance Portability and Accountability Act of 1996
 9 (42 U.S.C. 1320d–2 note).

10 “(d) DEFINITIONS.—In this section:

11 “(1) The term ‘case-tracking system’ means the
 12 system of the Department of Veterans Affairs that
 13 provides information regarding the status of a claim
 14 submitted by a veteran.

15 “(2) The term ‘covered employee’ means an em-
 16 ployee of a State or local governmental agency (in-
 17 cluding a veterans service officer) who, in the course
 18 of carrying out the responsibilities of such employ-
 19 ment, assists veterans with claims for any benefit
 20 under the laws administered by the Secretary.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
 22 at the beginning of such chapter is amended by adding
 23 at the end the following new item:

“5906. Provision of access to case-tracking information.”.

24 **SEC. 4. IMPROVEMENT OF FIDUCIARIES FOR VETERANS.**

25 (a) APPOINTMENT AND SUPERVISION.—

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

3 **“§ 5502. Appointment of fiduciaries**

4 “(a) APPOINTMENT.—(1) Where it appears to the
5 Secretary that the interest of the beneficiary would be
6 served thereby, payment of benefits under any law admin-
7 istered by the Secretary may be made directly to the bene-
8 ficiary or to a relative or some other fiduciary for the use
9 and benefit of the beneficiary, regardless of any legal dis-
10 ability on the part of the beneficiary.

11 “(2) When in the opinion of the Secretary, a tem-
12 porary fiduciary is needed in order to protect the benefits
13 provided to the beneficiary under any law administered by
14 the Secretary while a determination of incompetency is
15 being made or appealed or a fiduciary is appealing a deter-
16 mination of misuse, the Secretary may appoint one or
17 more temporary fiduciaries for a period not to exceed 120
18 days. If a final decision has not been made within 120
19 days, the Secretary may not continue the appointment of
20 the fiduciary without obtaining a court order for appoint-
21 ment of a guardian, conservator, or other fiduciary under
22 the authority provided in section 5502(b) of this title.

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

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

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

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

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

11 “(B) have a new fiduciary appointed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(1) a relative of the beneficiary;

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

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

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

“5502. Appointment of fiduciaries.”.

14 (b) SUPERVISION.—

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

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

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

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

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

8 “(ii) \$35.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“5502A. Supervision of fiduciaries.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(B) securely conducts financial transactions.

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

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

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

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

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

24 “(A) The Attorney General.

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

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

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

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

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

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

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

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

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

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

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

9 (e) ANNUAL RECEIPT OF PAYMENTS.—

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

12 (A) in subsection (a)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(i) spent on—

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

16 and

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

18 recreation, and other personal items for the

19 beneficiary; and

20 “(ii) saved for the beneficiary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SEC. 5. LIMITATION ON AWARDS AND BONUSES TO EM-**
13 **PLOYEES OF DEPARTMENT OF VETERANS AF-**
14 **FAIRS.**

15 For each of fiscal years 2014 through 2018, the Sec-
16 retary of Veterans Affairs may not pay more than
17 \$345,000,000 in awards or bonuses under chapter 45 or
18 53 of title 5, United States Code, or any other awards
19 or bonuses authorized under such title.

Passed the House of Representatives October 28,
2013.

Attest:

KAREN L. HAAS,
Clerk.