

113TH CONGRESS
1ST SESSION

S. 928

To amend title 38, United States Code, to improve the processing of claims for compensation under laws administered by the Secretary of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2013

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the processing of claims for compensation under 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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Claims Processing Improvement Act of 2013”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGENCY OF ORIGINAL JURISDICTION

- Sec. 101. Establishment of working group to improve employee work credit and work management systems of Veterans Benefits Administration.
- Sec. 102. Establishment of task force on retention and training of Department of Veterans Affairs claims processors and adjudicators.
- Sec. 103. Streamlining non-Department of Veterans Affairs Federal records requests.
- Sec. 104. Recognition of representatives of Indian tribes in the preparation, presentation, and prosecution of claims under laws administered by the Secretary of Veterans Affairs.
- Sec. 105. Pilot program on participation of local and tribal governments in improving quality of claims for disability compensation submitted to Department of Veterans Affairs.
- Sec. 106. Quarterly reports on progress of Department of Veterans Affairs in eliminating backlog of claims for compensation that have not been adjudicated.

TITLE II—BOARD OF VETERANS' APPEALS AND COURT OF APPEALS FOR VETERANS CLAIMS

- Sec. 201. Modification of filing period for notice of disagreement to initiate appellate review of decisions of Department of Veterans Affairs.
- Sec. 202. Determination of manner of appearance for hearings before Board of Veterans' Appeals.
- Sec. 203. Disclosure of certain medical records in appellate proceedings in certain courts.

TITLE III—OTHER MATTERS

- Sec. 301. Extension of authority for operations of Manila Department of Veterans Affairs Regional Office.
- Sec. 302. Extended period for scheduling of medical exams for veterans receiving temporary disability ratings for severe mental disorder.
- Sec. 303. Extension of marriage delimiting date for surviving spouses of Persian Gulf War veterans to qualify for death pension.
- Sec. 304. Making effective date provision consistent with provision for benefits eligibility of a veteran's child based upon termination of remarriage by annulment.
- Sec. 305. Extension of temporary authority for performance of medical disabilities examinations by contract physicians.

1 **TITLE I—AGENCY OF ORIGINAL**
2 **JURISDICTION**

3 **SEC. 101. ESTABLISHMENT OF WORKING GROUP TO IM-**
4 **PROVE EMPLOYEE WORK CREDIT AND WORK**
5 **MANAGEMENT SYSTEMS OF VETERANS BENE-**
6 **FITS ADMINISTRATION.**

7 (a) IN GENERAL.—Not later than 90 days after the
8 date of the enactment of this Act, the Secretary of Vet-
9 erans Affairs shall establish a working group to assess and
10 develop recommendations for the improvement of the em-
11 ployee work credit and work management systems of the
12 Veterans Benefits Administration.

13 (b) COMPOSITION.—The working group shall be com-
14 posed of the following:

15 (1) The Secretary or the Secretary's designee.

16 (2) Individuals selected by the Secretary from
17 among employees of the Department of Veterans Af-
18 fairs who—

19 (A) handle claims for compensation and
20 pension benefits; and

21 (B) are recommended to the Secretary by
22 a labor organization for purposes of this sec-
23 tion.

24 (3) Not fewer than three individuals selected by
25 the Secretary to represent different organizations

1 recognized by the Secretary for the representation of
2 veterans under section 5902 of title 38, United
3 States Code.

4 (c) DUTIES.—The duties of the working group are
5 as follows:

6 (1) To assess and develop recommendations for
7 the improvement of the employee work credit and
8 work management systems of the Veterans Benefits
9 Administration.

10 (2) To develop a data based methodology to be
11 used in revising the employee work credit system of
12 the Department and a schedule by which revisions to
13 such system should be made.

14 (3) To assess and develop recommendations for
15 improvement of the resource allocation model of the
16 Veterans Benefits Administration.

17 (d) REVIEW AND INCORPORATION OF FINDINGS
18 FROM PRIOR STUDY.—In carrying out its duties under
19 subsection (c), the working group shall review the findings
20 and conclusions of the Secretary regarding previous stud-
21 ies of the employee work credit and work management sys-
22 tems of the Veterans Benefits Administration.

23 (e) REPORTS.—

24 (1) INTERIM REPORT.—Not later than 180
25 days after the date of the establishment of the work-

1 ing group, the working group shall submit to Con-
2 gress a report on the progress of the working group.

3 (2) FINAL REPORT.—Not later than one year
4 after the date of the establishment of the working
5 group, the working group shall submit to Congress
6 the methodology and schedule developed under sub-
7 section (c)(2).

8 (f) IMPLEMENTATION OF METHODOLOGY AND
9 SCHEDULE.—After submitting the report under sub-
10 section (e), the Secretary shall take such actions as may
11 be necessary to apply the methodology developed under
12 subsection (c)(2) and apply such methodology according
13 to the schedule developed under such subsection.

14 **SEC. 102. ESTABLISHMENT OF TASK FORCE ON RETENTION**
15 **AND TRAINING OF DEPARTMENT OF VET-**
16 **ERANS AFFAIRS CLAIMS PROCESSORS AND**
17 **ADJUDICATORS.**

18 (a) ESTABLISHMENT.—The Secretary of Veterans
19 Affairs shall establish a task force to assess retention and
20 training of claims processors and adjudicators that are
21 employed by the Department of Veterans Affairs and
22 other Federal agencies and departments.

23 (b) COMPOSITION.—The task force shall be composed
24 of the following:

25 (1) The Secretary of Veterans Affairs.

1 (2) The Director of the Office of Personnel
2 Management.

3 (3) The Commissioner of Social Security.

4 (4) An individual selected by the Secretary of
5 Veterans Affairs who represents an organization rec-
6 ognized by the Secretary for the representation of
7 veterans under section 5902 of title 38, United
8 States Code.

9 (5) Such other individuals selected by the Sec-
10 retary who represent such other organizations and
11 institutions as the Secretary considers appropriate.

12 (c) DURATION.—The task force established under
13 subsection (a) shall terminate not later than two years
14 after the date on which the task force is establish under
15 such subsection.

16 (d) DUTIES.—The duties of the task force are as fol-
17 lows:

18 (1) To identify key skills required by claims
19 processors and adjudicators to perform the duties of
20 claims processors and adjudicators in the various
21 claims processing and adjudication positions
22 throughout the Federal Government.

23 (2) To identify reasons for employee attrition
24 from claims processing positions.

1 (3) Not later than one year after the date of
2 the establishment of the task force, to develop a
3 Government-wide strategic and operational plan for
4 promoting employment of veterans in claims proc-
5 essing positions in the Federal Government.

6 (4) To coordinate with educational institutions
7 to develop training and programs of education for
8 members of the Armed Forces to prepare such mem-
9 bers for employment in claims processing and adju-
10 dication positions in the Federal Government.

11 (5) To identify and coordinate offices of the De-
12 partment of Defense and the Department of Vet-
13 erans Affairs located throughout the United States
14 to provide information about, and promotion of,
15 available claims processing positions to members of
16 the Armed Forces transitioning to civilian life and to
17 veterans with disabilities.

18 (6) To establish performance measures to as-
19 sess the plan developed under paragraph (3), to as-
20 sess the implementation of such plan, and revise
21 such plan as the task force considers appropriate.

22 (7) To establish performance measures to
23 evaluate the effectiveness of the task force.

24 (e) REPORTS.—

1 (1) SUBMITTAL OF PLAN.—Not later than one
 2 year after the date of the establishment of the task
 3 force, the Secretary of Veterans Affairs shall submit
 4 to Congress a report on the plan developed by the
 5 task force under subsection (d)(3).

6 (2) ASSESSMENT OF IMPLEMENTATION.—Not
 7 later than 120 days after the termination of the task
 8 force, the Secretary shall submit to Congress a re-
 9 port that assesses the implementation of the plan
 10 developed by the task force under subsection (d)(3).

11 **SEC. 103. STREAMLINING NON-DEPARTMENT OF VETERANS**
 12 **AFFAIRS FEDERAL RECORDS REQUESTS.**

13 (a) IN GENERAL.—Paragraph (2) of section
 14 5103A(c) of title 38, United States Code, is amended to
 15 read as follows:

16 “(2)(A) Whenever the Secretary attempts to obtain
 17 records from a Federal department or agency, other than
 18 the Department, under this subsection, the Secretary shall
 19 make not fewer than two attempts to obtain the records,
 20 unless the records are obtained or the response to the first
 21 request makes evident that a second request for such
 22 records would be futile.

23 “(B) The notification requirements under subsection
 24 (b)(2) of this section shall apply if the Secretary is unable

1 to obtain all of the records sought from a Federal depart-
2 ment or agency other than the Department.”.

3 (b) SUBSEQUENT ATTAINMENT OF RECORDS.—Such
4 section is further amended by adding at the end the fol-
5 lowing new paragraph:

6 “(3) If, after adjudicating a claim for a benefit under
7 a law administered by the Secretary, the Secretary re-
8 ceives a record relevant to such claim (or associates with
9 the file for such claim a record) that the Secretary re-
10 quested from a Federal department or agency before the
11 adjudication, the record received (or associated) shall be
12 deemed to have been in the file for such claim as of the
13 date of the original filing of the claim for such benefit.”.

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 any claim that—

18 (1) is filed on or after the date that is 180 days
19 after the date of the enactment of this Act; or

20 (2) was filed before the date of the enactment
21 of this Act and was not final as of such date.

1 **SEC. 104. RECOGNITION OF REPRESENTATIVES OF INDIAN**
2 **TRIBES IN THE PREPARATION, PRESEN-**
3 **TATION, AND PROSECUTION OF CLAIMS**
4 **UNDER LAWS ADMINISTERED BY THE SEC-**
5 **RETARY OF VETERANS AFFAIRS.**

6 Section 5902(a)(1) of title 38, United States Code,
7 is amended by inserting “Indian tribes (as defined in sec-
8 tion 4 of the Indian Self-Determination and Education As-
9 sistance Act (25 U.S.C. 450b))” after “Foreign Wars,”.

10 **SEC. 105. PILOT PROGRAM ON PARTICIPATION OF LOCAL**
11 **AND TRIBAL GOVERNMENTS IN IMPROVING**
12 **QUALITY OF CLAIMS FOR DISABILITY COM-**
13 **PENSATION SUBMITTED TO DEPARTMENT OF**
14 **VETERANS AFFAIRS.**

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

20 (1) to improve the quality of claims submitted
21 to the Secretary for compensation under chapter 11
22 and pension under chapter 15 of title 38, United
23 States Code; and

24 (2) to provide assistance to veterans who may
25 be eligible for such compensation or pension in sub-
26 mitting such claims.

1 (b) MINIMUM NUMBER OF PARTICIPATING TRIBAL
 2 ORGANIZATIONS.—In carrying out the pilot program re-
 3 quired by subsection (a), the Secretary shall enter into
 4 memorandums of understanding with at least—

5 (1) two tribal organizations; and

6 (2) 10 State or local governments.

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

10 **SEC. 106. QUARTERLY REPORTS ON PROGRESS OF DEPART-**
 11 **MENT OF VETERANS AFFAIRS IN ELIMI-**
 12 **NATING BACKLOG OF CLAIMS FOR COM-**
 13 **PENSATION THAT HAVE NOT BEEN ADJU-**
 14 **DICATED.**

15 (a) IN GENERAL.—Not later than 90 days after the
 16 date of the enactment of this Act and not less frequently
 17 than quarterly thereafter through calendar year 2015, the
 18 Secretary of Veterans Affairs shall submit to the Com-
 19 mittee on Veterans’ Affairs of the Senate and the Com-
 20 mittee on Veterans’ Affairs of the House of Representa-
 21 tives a report on the backlog of claims filed with the De-
 22 partment of Veterans Affairs for compensation that have
 23 not been adjudicated by the Department.

24 (b) CONTENTS.—Each report submitted under sub-
 25 section (a) shall include the following:

1 (1) For each month through calendar year
2 2015, a projection of the following:

3 (A) The number of claims completed.

4 (B) The number of claims received.

5 (C) The number of claims backlogged at
6 the end of the month.

7 (D) The number of claims pending at the
8 end of the month.

9 (E) A description of the status of the im-
10 plementation of initiatives carried out by the
11 Secretary to address the backlog.

12 (2) For each quarter through calendar year
13 2015, a projection of the average accuracy of dis-
14 ability determinations for compensation claims that
15 require a disability rating (or disability decision).

16 (3) For each month during the most recently
17 completed quarter, the following:

18 (A) The number of claims completed.

19 (B) The number of claims received.

20 (C) The number of claims backlogged at
21 the end of the month.

22 (D) The number of claims pending at the
23 end of the month.

1 (E) A description of the status of the im-
2 plementation of initiatives carried out by the
3 Secretary to address the backlog.

4 (4) For the most recently completed quarter, an
5 assessment of the accuracy of disability determina-
6 tions for compensation claims that require a dis-
7 ability rating (or disability decision).

8 (c) AVAILABILITY TO PUBLIC.—The Secretary shall
9 make each report submitted under subsection (a) available
10 to the public.

11 (d) DEFINITIONS.—In this section:

12 (1) BACKLOGGED.—The term “backlogged”,
13 with respect to a claim for compensation received by
14 the Secretary, means a claim that has been pending
15 for more than 125 days.

16 (2) PENDING.—The term “pending”, with re-
17 spect to a claim for compensation received by the
18 Secretary, means a claim that has not been adju-
19 dicated by the Secretary.

1 **TITLE II—BOARD OF VETERANS’**
2 **APPEALS AND COURT OF AP-**
3 **PEALS FOR VETERANS**
4 **CLAIMS**

5 **SEC. 201. MODIFICATION OF FILING PERIOD FOR NOTICE**
6 **OF DISAGREEMENT TO INITIATE APPELLATE**
7 **REVIEW OF DECISIONS OF DEPARTMENT OF**
8 **VETERANS AFFAIRS.**

9 (a) FILING OF NOTICE OF DISAGREEMENT BY
10 CLAIMANTS.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 7105(b) of title 38, United States Code, is amend-
13 ed—

14 (A) by striking “one year” and inserting
15 “180 days” in the first sentence; and

16 (B) by striking “one-year” and inserting
17 “180-day” in the third sentence.

18 (2) ELECTRONIC FILING.—Such paragraph is
19 further amended by inserting “or transmitted by
20 electronic means” after “postmarked”.

21 (3) GOOD CAUSE EXCEPTION FOR UNTIMELY
22 FILING OF NOTICES OF DISAGREEMENT.—Such sec-
23 tion 7105(b) is amended by adding at the end the
24 following new paragraph:

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

4 “(i) the Secretary determines that the claimant,
5 legal guardian, or other accredited representative,
6 attorney, or authorized agent filing the notice had
7 good cause for the lack of filing within such time;
8 and

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

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

14 “(i) Circumstances relating to any physical,
15 mental, educational, or linguistic limitation of the
16 claimant, legal guardian, representative, attorney, or
17 authorized agent concerned (including lack of facility
18 with the English language).

19 “(ii) Circumstances relating to significant delay
20 in the delivery of the initial decision or of the notice
21 of disagreement because of natural disaster or fac-
22 tors relating to geographic location.

23 “(iii) A change in financial circumstances, in-
24 cluding the payment of medical expenses or other
25 changes in income or net worth that are considered

1 in determining eligibility for benefits and services on
 2 an annualized basis for purposes of needs-based ben-
 3 efits under chapters 13, 15, and 17 of this title.”.

4 (b) APPLICATION BY DEPARTMENT FOR REVIEW ON
 5 APPEAL.—Section 7106 of such title is amended in the
 6 first sentence by striking “one-year period described in
 7 section 7105” and inserting “period described in section
 8 7105(b)(1)”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply with respect to claims for com-
 11 pensation and benefits under laws administered by the
 12 Secretary of Veterans Affairs filed with the Secretary after
 13 the date of the enactment of this Act.

14 **SEC. 202. DETERMINATION OF MANNER OF APPEARANCE**
 15 **FOR HEARINGS BEFORE BOARD OF VET-**
 16 **ERANS’ APPEALS.**

17 (a) IN GENERAL.—Section 7107 of title 38, United
 18 States Code, is amended—

19 (1) by redesignating subsection (f) as sub-
 20 section (g);

21 (2) in subsection (a)(1), by striking “in sub-
 22 section (f)” and inserting “in subsection (g)”; and

23 (3) by striking subsections (d) and (e) and in-
 24 serting the following new subsections:

1 “(d)(1) Except as provided in paragraph (2), a hear-
2 ing before the Board shall be conducted through picture
3 and voice transmission, by electronic or other means, in
4 such a manner that the appellant is not present in the
5 same location as the members of the Board during the
6 hearing.

7 “(2)(A) A hearing before the Board shall be con-
8 ducted in person upon the request of an appellant.

9 “(B) In the absence of a request under subparagraph
10 (A), a hearing before the Board may also be conducted
11 in person as the Board considers appropriate.

12 “(e)(1) In a case in which a hearing before the Board
13 is to be held as described in subsection (d)(1), the Sec-
14 retary shall provide suitable facilities and equipment to the
15 Board or other components of the Department to enable
16 an appellant located at an appropriate facility within the
17 area served by a regional office to participate as so de-
18 scribed.

19 “(2) Any hearing conducted as described in sub-
20 section (d)(1) shall be conducted in the same manner as,
21 and shall be considered the equivalent of, a personal hear-
22 ing.

23 “(f)(1) In a case in which a hearing before the Board
24 is to be held as described in subsection (d)(2), the appel-
25 lant may request that the hearing be held at the principal

1 location of the Board or at a facility of the Department
 2 located within the area served by a regional office of the
 3 Department.

4 “(2) A hearing to be held within an area served by
 5 a regional office of the Department shall (except as pro-
 6 vided in paragraph (3)) be scheduled to be held in accord-
 7 ance with the place of the case on the docket under sub-
 8 section (a) relative to other cases on the docket for which
 9 hearings are scheduled to be held within that area.

10 “(3) A hearing to be held within an area served by
 11 a regional office of the Department may, for cause shown,
 12 be advanced on motion for an earlier hearing. Any such
 13 motion shall set forth succinctly the grounds upon which
 14 the motion is based. Such a motion may be granted only—

15 “(A) if the case involves interpretation of law of
 16 general application affecting other claims;

17 “(B) if the appellant is seriously ill or is under
 18 severe financial hardship; or

19 “(C) for other sufficient cause shown.”.

20 (b) EFFECTIVE DATE.—The amendments made by
 21 subsection (a) shall apply with respect to cases received
 22 by the Board of Veterans’ Appeals pursuant to notices of
 23 disagreement submitted on or after the date of the enact-
 24 ment of this Act.

1 **SEC. 203. DISCLOSURE OF CERTAIN MEDICAL RECORDS IN**
2 **APPELLATE PROCEEDINGS IN CERTAIN**
3 **COURTS.**

4 Section 7332(b)(2) of title 38, United States Code,
5 is amended—

6 (1) by redesignating subparagraphs (E)
7 through (G) as subparagraphs (F) through (H), re-
8 spectively; and

9 (2) by inserting after subparagraph (D) the fol-
10 lowing new subparagraph (E):

11 “(E) To the Supreme Court of the United
12 States, the United States Court of Appeals for the
13 Federal Circuit, or the United States Court of Ap-
14 peals for Veterans Claims, and all parties of record,
15 in a case that is appealed to such court and such
16 records are included in the record on appeal. Upon
17 disclosure of such records, the court concerned shall
18 impose appropriate safeguards against unauthorized
19 disclosure that are consistent with the provisions of
20 section 7268 of this title.”.

1 **TITLE III—OTHER MATTERS**

2 **SEC. 301. EXTENSION OF AUTHORITY FOR OPERATIONS OF**
3 **MANILA DEPARTMENT OF VETERANS AF-**
4 **FAIRS REGIONAL OFFICE.**

5 Section 315(b) of title 38, United States Code, is
6 amended by striking “December 31, 2013” and inserting
7 “December 31, 2014”.

8 **SEC. 302. EXTENDED PERIOD FOR SCHEDULING OF MED-**
9 **ICAL EXAMS FOR VETERANS RECEIVING TEM-**
10 **PORARY DISABILITY RATINGS FOR SEVERE**
11 **MENTAL DISORDER.**

12 Section 1156(a)(3) of title 38, United States Code,
13 is amended by striking “six months” and inserting “540
14 days”.

15 **SEC. 303. EXTENSION OF MARRIAGE DELIMITING DATE FOR**
16 **SURVIVING SPOUSES OF PERSIAN GULF WAR**
17 **VETERANS TO QUALIFY FOR DEATH PEN-**
18 **SION.**

19 Section 1541(f)(1)(E) of title 38, United States
20 Code, is amended by striking “January 1, 2011” and in-
21 serting “the date that is 10 years and one day after the
22 date on which the Persian Gulf War was terminated, as
23 prescribed by Presidential proclamation or by law”.

1 **SEC. 304. MAKING EFFECTIVE DATE PROVISION CON-**
2 **SISTENT WITH PROVISION FOR BENEFITS**
3 **ELIGIBILITY OF A VETERAN'S CHILD BASED**
4 **UPON TERMINATION OF REMARRIAGE BY AN-**
5 **NULMENT.**

6 Section 5110(l) of title 38, United States Code, is
7 amended by striking “, or of an award or increase of bene-
8 fits based on recognition of a child upon termination of
9 the child’s marriage by death or divorce,”.

10 **SEC. 305. EXTENSION OF TEMPORARY AUTHORITY FOR**
11 **PERFORMANCE OF MEDICAL DISABILITIES**
12 **EXAMINATIONS BY CONTRACT PHYSICIANS.**

13 (a) IN GENERAL.—Section 704(c) of the Veterans
14 Benefits Act of 2003 (Public Law 108–183; 38 U.S.C.
15 5101 note) is amended by striking “December 31, 2013”
16 and inserting “December 31, 2014”.

17 (b) REPORT ON DISABILITY MEDICAL EXAMINA-
18 TIONS FURNISHED BY DEPARTMENT OF VETERANS AF-
19 FAIRS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary of Veterans Affairs shall submit to the Com-
23 mittee on Veterans’ Affairs of the Senate and the
24 Committee on Veterans’ Affairs of the House of
25 Representatives a report on the furnishing of general
26 medical and specialty medical examinations by the

1 Department of Veterans Affairs for purposes of ad-
2 judicating claims for benefits under laws adminis-
3 tered by the Secretary.

4 (2) CONTENTS.—The report submitted under
5 paragraph (1) shall include the following:

6 (A) The number of general medical exami-
7 nations furnished by the Department during the
8 period of fiscal years 2009 through 2012 for
9 purposes of adjudicating claims for benefits
10 under laws administered by the Secretary.

11 (B) The number of general medical exami-
12 nations furnished by the Department during the
13 period of fiscal years 2009 through 2012 for
14 purposes of adjudicating a claim in which a
15 comprehensive joint examination was conducted,
16 but for which no disability relating to a joint,
17 bone, or muscle had been asserted as an issue
18 in the claim.

19 (C) The number of specialty medical ex-
20 aminations furnished by the Department during
21 the period of fiscal years 2009 through 2012
22 for purposes of adjudicating a claim.

23 (D) The number of specialty medical ex-
24 aminations furnished by the Department during
25 the period of fiscal years 2009 through 2012

1 for purposes of adjudicating a claim in which
2 one or more joint examinations were conducted.

3 (E) A summary (including citations of)
4 any medical and scientific studies which provide
5 a scientific basis for determining that three rep-
6 etitions is adequate to determine the effect of
7 repetitive use on functional impairments.

8 (F) The names of all examination reports,
9 including general medical examinations and
10 Disability Benefits Questionnaires, used for
11 evaluation of compensation and pension dis-
12 ability claims which require measurement of re-
13 peated ranges of motion testing and the number
14 of examinations requiring such measurements
15 which were conducted in fiscal year 2012.

16 (G) The average amount of time taken by
17 an individual conducting a medical examination
18 to perform the three repetitions.

19 (H) A discussion of whether there are
20 more efficient and effective scientifically reliable
21 methods of testing for functional loss on repet-
22 itive use of an extremity other than the three
23 time repetition currently used by the Depart-
24 ment.

1 (I) Recommendations as to the continu-
2 ation of the practice of measuring functional
3 impairment by using three repetitions during
4 the examination as a criteria for evaluating the
5 effect of repetitive motion on functional impair-
6 ment with supporting rationale.

7 (c) REPORT ON PROGRESS OF ACCEPTABLE CLIN-
8 ICAL EVIDENCE INITIATIVE.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary shall submit to the Committee on Veterans'
12 Affairs of the Senate and the Committee on Vet-
13 erans' Affairs of the House of Representatives a re-
14 port on the progress of the Acceptable Clinical Evi-
15 dence initiative of the Department of Veterans Af-
16 fairs in reducing the necessity for in-person dis-
17 ability examinations and other efforts to comply with
18 the provisions of section 5125 of title 38, United
19 States Code.

20 (2) CONTENTS.—The report required by para-
21 graph (1) shall include the following:

22 (A) The number of claims eligible for the
23 Acceptable Clinical Evidence initiative during
24 the period beginning on the date of the initi-
25 ation of the initiative and ending on the date of

1 the enactment of this Act, disaggregated by fis-
2 cal year.

3 (B) The total number of claims eligible for
4 the Acceptable Clinical Evidence initiative that
5 required a medical examiner of the Department
6 to supplement the evidence with information ob-
7 tained during a telephone interview with a
8 claimant.

9 (C) Information on any other initiatives or
10 efforts of the Department to further encourage
11 the use of private medical evidence and reliance
12 upon reports of a medical examination adminis-
13 tered by a private physician if the report is suf-
14 ficiently complete to be adequate for the pur-
15 poses of adjudicating a claim.

○