

## **Summary of H.R. 2349, as amended Veterans' Benefits Act of 2011**

**Title:** To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to annually assess the skills of certain employees and managers of the Veterans Benefits Administration, and for other purposes.

**Mr. Runyan** introduced H.R. 2349 on June 24, 2011.

### **H.R. 2349, as amended, would:**

- Direct the Secretary of Veterans Affairs to conduct a four year pilot program at five VBA Regional Offices to biennially assess the skills of certain employees and managers of the Veterans Benefits Administration through testing at a cost of \$5 million. Would require test development and hiring of subject matter experts. Would require personnel actions after two failed tests that could result in termination. Would require an annual report to Congress on test results or changes.
- Exclude from annual income, for purposes of eligibility for pensions for veterans and their surviving spouses and children, reimbursements resulting from:
  - Any accident;
  - Any theft or loss;
  - Any casualty loss;
  - Medical expenses resulting from any such accident, theft, or loss; and
  - Pain and suffering (including insurance settlement payments and general damages awarded by a court) related to such accident, theft, or loss.
- Extend the IRS income verification provision from 2011 to 2013, resulting in net savings covering mandatory spending of \$44 million.
- Direct the Secretary of Veterans Affairs (VA) to provide VA benefits claimants, by the most effective means available, as determined by the Secretary, including electronic communication or notification in writing, any information or medical or lay evidence not previously provided to the Secretary that is necessary to substantiate a claim. (Current law does not specify the means of notice). Would not require Veterans Claims Assistance Act (VCAA) notice on subsequent claims filed by the claimant except in certain circumstances.
- Require the Secretary, whenever private records relevant to a claim are unable to be obtained after making reasonable efforts in response to a claimant's request for assistance, to, subject to waiver: (1) notify the claimant that the claim will be decided based on evidence of record, but that this Act does not prohibit submission of records at a later date if such submission is otherwise allowed, and (2) make only two requests to a private record custodian before an effort to obtain relevant private records may be treated as futile.
- Direct the Secretary, when attempting to assist a disability compensation claimant in obtaining relevant records from a federal agency, to continue such efforts unless it is reasonably certain that the records are nonexistent or that further efforts would be futile.
- Requires the Secretary to prescribe regulations to encourage claimants to submit private medical records and to require the claimant to give the Secretary authority to request such records.

- Direct the Secretary to notify claimants when the Secretary is unable to obtain records with respect to the claim.
- Allow the Secretary to do notify after two attempts unless the first attempt indicates that a second request would be futile.
- Not allow application of these provisions in cases where the maximum benefit may be assigned.
- Prohibit, in any case arising out of the administration of laws and benefits by the Secretary of Veterans Affairs (VA), considering any person who is mentally incapacitated, deemed mentally incompetent, or experiencing an extended loss of consciousness from being considered adjudicated as a mental defective for purposes of the right to receive or transport firearms without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others.
- Impose criminal penalties under title 18 of the U.S. Code against any person who knowingly solicits, contracts for, charges, or receives any fee or compensation from a veteran, other than that currently permitted under law, for:
  - Providing advice on how to file a benefits claim; or
  - The preparation, presentation, or prosecution of a claim before the date on which a notice of disagreement is filed in a proceeding on the claim.
  - Unlawfully withholding from any claimant or beneficiary any part of a benefit or claim.
  - Committing an act punishable by this chapter or aids, abets, counsels, commands, or procures the commission of such an act.
  - Causing an act to be done which if directly performed would be a violation.
  - Would prohibit for each year of FY 2012 to FY 2016, the Secretary paying more than \$2,000,000 in performance awards under section 5384 of title 5.
  - Would indicate budgetary effects for purpose of complying with the Statutory Pay-As-You-Go Act of 2010.

**Effective Date:** Date of enactment.

**Legislative History:**

- Jul. 7, 2011: Legislative hearing held by the Subcommittee on Disability Assistance and Memorial Affairs.
- Jul. 22, 2011: Ordered reported by the Subcommittee on Disability Assistance and Memorial Affairs.
- Sept. 8, 2011: Full Committee Markup – ordered reported to the House.
- Oct. 6, 2011: Reported by the Committee, H. Rept. 112-241.
- Oct. 11, 2011: House agreed to suspend the rules and pass the bill by voice vote.