

113TH CONGRESS  
1ST SESSION

# H. R. 2189

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

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

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## A BILL

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

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. EVALUATION OF BACKLOG OF DISABILITY**  
4 **CLAIMS OF DEPARTMENT OF VETERANS AF-**  
5 **FAIRS.**

6 (a) IN GENERAL.—There is established a commission  
7 or task force to evaluate the backlog of claims within the  
8 Department of Veterans Affairs.

9 (b) STUDY.—

1           (1) IN GENERAL.—The Commission or Task  
2 Force shall carry out a study on the backlog of  
3 claims, including the current process the Secretary  
4 of Veterans Affairs uses to evaluate claims and ap-  
5 peals and the laws and regulations applicable to  
6 such claims and appeals. Such study shall be a com-  
7 prehensive evaluation and assessment of the backlog  
8 of claims, an analysis of possible improvements to  
9 the procedures used to process such claims, and any  
10 related issues that the Commission or Task Force  
11 considers relevant.

12           (2) CONSIDERATION.—In carrying out the  
13 study under paragraph (1) and making any rec-  
14 ommendations under this section, the Commission or  
15 Task Force shall consider the following:

16           (A) The interests of veterans, including  
17 with respect to accuracy, fairness, and trans-  
18 parency in the claims process of the Depart-  
19 ment.

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

1 (C) The public interest, including with re-  
2 spect to the responsible use of available re-  
3 sources.

4 (D) The importance of the claimant friend-  
5 ly, nonadversarial nature of the claims process.

6 (3) MATTERS INCLUDED.—In carrying out the  
7 study under paragraph (1), the Commission or Task  
8 Force shall examine the following:

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

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

14 (ii) with respect to the Department,  
15 the annual funding, number of full-time  
16 employees, workload management prac-  
17 tices, and the progress, as of the date of  
18 the study, of the transformation plan of  
19 the Department.

20 (B) Possible improvements to the claims  
21 process, including an evaluation and rec-  
22 ommendations with respect to whether sub-  
23 stantive and structural changes to the overall  
24 claims process are required.

1 (C) In carrying out the evaluation and rec-  
2 ommendations under subparagraph (B), an ex-  
3 amination of—

4 (i) options that make no major sub-  
5 stantive changes to the claims process;

6 (ii) options that maintain the process  
7 but make minor changes; and

8 (iii) options that make broad changes  
9 to the process.

10 (D) The appeals process, including—

11 (i) an analysis of the necessity of the  
12 multi-tiered levels of appeals at the Re-  
13 gional Office level, including filing a notice  
14 of disagreement, receipt of a statement of  
15 the case, supplemental statement of the  
16 case (if applicable), and substantive appeal  
17 (VA form 9);

18 (ii) an analysis of the role of the  
19 Board of Veterans' Appeals, including—

20 (I) the effectiveness of the work-  
21 load management of the Board;

22 (II) whether the Board should be  
23 regionalized or maintain the central-  
24 ized structure in the District of Co-  
25 lumbia; and

1 (III) whether Board Members  
2 should be required to pass the admin-  
3 istrative law judges certification exam-  
4 ination; and

5 (iii) an analysis of the role of the  
6 Court of Appeals for Veterans Claims and  
7 the Court of Appeals for the Federal Cir-  
8 cuit, including—

9 (I) the continued effectiveness  
10 and necessity of a two-tiered structure  
11 of judicial review;

12 (II) the Article I status of the  
13 Court of Appeals for Veterans Claims;

14 (III) expansion of either the  
15 Court of Appeals for Veterans Claims  
16 or the Court of Appeals for the Fed-  
17 eral Circuit jurisdiction, including by  
18 allowing such Courts to hear class ac-  
19 tion lawsuits with respect to claims;  
20 and

21 (IV) the possibility of expanding  
22 judicial review of claims to all Federal  
23 circuit courts of appeals.

24 (4) ROLE OF SECRETARY OF VETERANS AF-  
25 FAIRS.—

1 (A) INFORMATION.—In carrying out a  
2 study on the backlog of claims under paragraph  
3 (1), the Commission or Task Force shall submit  
4 to the Secretary of Veterans Affairs, at times  
5 that the Commission or Task Force determines  
6 appropriate, information with respect to rem-  
7 edies and solutions for the backlog of claims  
8 that the Commission or Task Force identifies  
9 pursuant to such study.

10 (B) IMPLEMENTATION.—The Secretary  
11 shall—

12 (i) fully consider the remedies and so-  
13 lutions submitted under subparagraph (A);

14 (ii) implement such remedies and so-  
15 lutions as the Secretary determines appro-  
16 priate; and

17 (iii) submit to Congress justification  
18 for failing to implement any such remedy  
19 or solution.

20 (c) REPORTS.—

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

1 report on the study conducted under subsection (b),  
2 including—

3 (A) the findings of the causes of the back-  
4 log of claims; and

5 (B) the level of cooperation the Commis-  
6 sion or Task Force has received from the Sec-  
7 retary of Veterans Affairs and the heads of  
8 other departments or agencies of the Federal  
9 Government.

10 (2) INTERIM REPORTS.—Not later than 90 days  
11 after the date on which the Commission or Task  
12 Force first meets, and each 30-day period thereafter  
13 ending on the date on which the Commission or  
14 Task Force submits the final report under para-  
15 graph (3), the Commission or Task Force shall sub-  
16 mit to the President and Congress a report on—

17 (A) the progress of the Secretary of Vet-  
18 erans Affairs with respect to implementing solu-  
19 tions to expedite the elimination of the backlog  
20 of claims pursuant to subsection (b)(4)(B)(ii);  
21 and

22 (B) the level of cooperation the Commis-  
23 sion or Task Force has received from the Sec-  
24 retary of Veterans Affairs and the heads of

1 other departments or agencies of the Federal  
2 Government.

3 (3) FINAL REPORT.—Not later than 180 days  
4 after the date on which the Commission or Task  
5 Force first meets, the Commission or Task Force  
6 shall submit to the President and Congress a report  
7 on the study conducted under subsection (b). The  
8 report shall include the following:

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

13 (B) The recommendations of the Commis-  
14 sion or Task Force for revising and improving  
15 the backlog of claims and the procedures used  
16 to process claims.

17 (C) The progress of the Secretary of Vet-  
18 erans Affairs with respect to implementing solu-  
19 tions to expedite the elimination of the backlog  
20 of claims pursuant to subsection (b)(4)(B)(ii).

21 (D) Other information and recommenda-  
22 tions with respect to claims as the Commission  
23 or Task Force considers appropriate.

24 (d) MEMBERSHIP.—

1           (1) NUMBER AND APPOINTMENT.—The Com-  
2 mission or Task Force shall be composed of 15  
3 members, appointed as follows:

4           (A) Two members appointed by the Speak-  
5 er of the House of Representatives, at least one  
6 of whom shall be a veteran.

7           (B) Two members appointed by the minor-  
8 ity leader of the House of Representatives, at  
9 least one of whom shall be a veteran.

10          (C) Two members appointed by the major-  
11 ity leader of the Senate, at least one of whom  
12 shall be a veteran.

13          (D) Two members appointed by the minor-  
14 ity leader of the Senate, at least one of whom  
15 shall be a veteran.

16          (E) Three members appointed by the  
17 President, at least two of whom shall be vet-  
18 erans.

19          (F) Two members appointed by the Sec-  
20 retary of Defense.

21          (G) Two members appointed by the Sec-  
22 retary of Veteran Affairs, at least one of whom  
23 shall be a veteran, and at least one of whom  
24 shall be an employee of the Veterans Benefits  
25 Administration.

1           (2) ADVISORS.—In addition to the 15 members  
2 appointed under paragraph (1), the Commission or  
3 Task Force shall—

4           (A) have five nonvoting, nonmember advi-  
5 sors, appointed by a majority of the Commis-  
6 sion or Task Force from various veterans serv-  
7 ice organizations; and

8           (B) seek advice from experts from non-  
9 governmental organizations (including veterans  
10 service organizations and military organiza-  
11 tions), the Internet technology industry, and  
12 the insurance industry.

13           (3) CHAIRMAN.—The President shall designate  
14 a member of the Commission or Task Force to be  
15 the chairman.

16           (4) PERIOD OF APPOINTMENT.—Members of  
17 the Commission or Task Force shall be appointed  
18 for the life of the Commission or Task Force. A va-  
19 cancy shall not affect its powers.

20           (5) VACANCY.—A vacancy on the Commission  
21 or Task Force shall be filled in the manner in which  
22 the original appointment was made.

23           (6) APPOINTMENT DEADLINE.—The appoint-  
24 ment of members of the Commission or Task Force  
25 established in this section shall be made not later

1 than 15 days after the date of the enactment of this  
2 Act.

3 (e) MEETINGS.—

4 (1) INITIAL MEETING.—The Commission or  
5 Task Force shall hold its first meeting not later  
6 than 15 days after the date on which a majority of  
7 the members are appointed.

8 (2) MEETINGS.—The Commission or Task  
9 Force shall meet at the call of the chairman.

10 (3) QUORUM.—A majority of the members of  
11 the Commission or Task Force shall constitute a  
12 quorum, but a lesser number may hold hearings.

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

14 (1) HEARINGS.—The Commission or Task  
15 Force may hold such hearings, sit and act at such  
16 times and places, take such testimony, and receive  
17 such evidence as the Commission or Task Force con-  
18 siders advisable to carry out the purposes of this  
19 section.

20 (2) INFORMATION FROM FEDERAL AGENCIES.—

21 The Commission or Task Force may secure directly  
22 from any department or agency of the Federal Gov-  
23 ernment such information as the Commission or  
24 Task Force considers necessary to carry out the pro-  
25 visions of this section. Upon request of the chair-

1 man, the head of such department or agency shall  
2 furnish such information to the Commission or Task  
3 Force.

4 (3) POSTAL SERVICES.—The Commission or  
5 Task Force may use the United States mails in the  
6 same manner and under the same conditions as  
7 other departments and agencies of the Federal Gov-  
8 ernment.

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

12 (g) PERSONNEL MATTERS.—

13 (1) COMPENSATION OF MEMBERS.—Each mem-  
14 ber of the Commission or Task Force who is not an  
15 officer or employee of the United States shall be  
16 compensated at a rate equal to the daily equivalent  
17 of the annual rate of basic pay prescribed for level  
18 IV of the Executive Schedule under section 5315 of  
19 title 5, United States Code, for each day (including  
20 travel time) during which the member is engaged in  
21 the performance of the duties of the Commission or  
22 Task Force. All members of the Commission or  
23 Task Force who are officers or employees of the  
24 United States shall serve without compensation in

1 addition to that received for their services as officers  
2 or employees of the United States.

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

11 (3) STAFF.—

12 (A) The chairman of the Commission or  
13 Task Force may, without regard to the civil  
14 service laws and regulations, appoint an execu-  
15 tive director and such other personnel as may  
16 be necessary to enable the Commission or Task  
17 Force to perform its duties. The appointment of  
18 an executive director shall be subject to the ap-  
19 proval of the Commission or Task Force.

20 (B) The chairman of the Commission or  
21 Task Force may fix the compensation of the ex-  
22 ecutive director and other personnel without re-  
23 gard to the provisions of chapter 51 and sub-  
24 chapter III of chapter 53 of title 5, United  
25 States Code, relating to classification of posi-

1           tions and General Schedule pay rates, except  
2           that the rate of pay for the executive director  
3           and other personnel may not exceed the rate  
4           payable for level V of the Executive Schedule  
5           under section 5316 of such title.

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

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

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

25          (i) FUNDING.—

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

7           (2) AVAILABILITY.—Any sums made available  
8           to the Commission or Task Force shall remain avail-  
9           able, without fiscal year limitation, until the termi-  
10          nation of the Commission or Task Force.

11          (j) CLAIM DEFINED.—In this section, the term  
12          “claim” means a claim for disability compensation under  
13          the laws administered by the Secretary of Veterans Af-  
14          fairs.

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