

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1405
OFFERED BY MS. TITUS OF NEVADA**

Strike all after the enacting clause and insert the following:

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

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

7 (1) by striking “and (2)” and inserting “(2)”;
8 and

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

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

1 **SEC. 2. PROVISION OF STATUS UNDER LAW BY HONORING**
2 **CERTAIN MEMBERS OF THE RESERVE COM-**
3 **ONENTS AS VETERANS.**

4 (a) VETERAN STATUS.—

5 (1) IN GENERAL.—Chapter 1 of title 38, United
6 States Code, is amended by inserting after section
7 107 the following new section:

8 **“§ 107A. Honoring as veterans certain persons who**
9 **performed service in the reserve compo-**
10 **nents**

11 “Any person who is entitled under chapter 1223 of
12 title 10 to retired pay for nonregular service or, but for
13 age, would be entitled under such chapter to retired pay
14 for nonregular service shall be honored as a veteran but
15 shall not be entitled to any benefit by reason of this sec-
16 tion.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions at the beginning of such chapter is amended
19 by inserting after the item relating to section 107
20 the following new item:

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

21 (b) CLARIFICATION REGARDING BENEFITS.—No
22 person may receive any benefit under the laws adminis-
23 tered by the Secretary of Veterans Affairs solely by reason

1 of section 107A of title 38, United States Code, as added
2 by subsection (a).

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

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

8 **“§ 5906. Provision of access to case-tracking informa-**
9 **tion**

10 “(a) IN GENERAL.—(1) In accordance with sub-
11 section (b), the Secretary shall provide a covered employee
12 with access to the case-tracking system to provide a vet-
13 eran with information regarding the status of a claim sub-
14 mitted by such veteran if such employee is acting under
15 written permission or a power of attorney executed by
16 such veteran.

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

20 “(A) that such access—

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

24 “(ii) does not include access to medical
25 records; and

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

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

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

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

14 “(2) a permitted disclosure under regulations
15 promulgated under section 264(c) of the Health In-
16 surance Portability and Accountability Act of 1996
17 (42 U.S.C. 1320d–2 note).

18 “(d) DEFINITIONS.—In this section:

19 “(1) The term ‘case-tracking system’ means the
20 system of the Department of Veterans Affairs that
21 provides information regarding the status of a claim
22 submitted by a veteran.

23 “(2) The term ‘covered employee’ means an em-
24 ployee of a State or local governmental agency (in-
25 cluding a veterans service officer) who, in the course

1 of carrying out the responsibilities of such employ-
2 ment, assists veterans with claims for any benefit
3 under the laws administered by the Secretary.”.

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

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

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

8 (a) APPOINTMENT AND SUPERVISION.—

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

11 **“§ 5502. Appointment of fiduciaries**

12 “(a) APPOINTMENT.—(1) Where it appears to the
13 Secretary that the interest of the beneficiary would be
14 served thereby, payment of benefits under any law admin-
15 istered by the Secretary may be made directly to the bene-
16 ficiary or to a relative or some other fiduciary for the use
17 and benefit of the beneficiary, regardless of any legal dis-
18 ability on the part of the beneficiary.

19 “(2) When in the opinion of the Secretary, a tem-
20 porary fiduciary is needed in order to protect the benefits
21 provided to the beneficiary under any law administered by
22 the Secretary while a determination of incompetency is
23 being made or appealed or a fiduciary is appealing a deter-
24 mination of misuse, the Secretary may appoint one or
25 more temporary fiduciaries for a period not to exceed 120

1 days. If a final decision has not been made within 120
2 days, the Secretary may not continue the appointment of
3 the fiduciary without obtaining a court order for appoint-
4 ment of a guardian, conservator, or other fiduciary under
5 the authority provided in section 5502(b) of this title.

6 “(b) APPEALS.—(1) If the Secretary determines a
7 beneficiary to be mentally incompetent for purposes of ap-
8 pointing a fiduciary under this chapter, the Secretary shall
9 provide such beneficiary with a written statement detailing
10 the reasons for such determination.

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

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

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

19 “(B) have a new fiduciary appointed.

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

23 “(A) the fiduciary requested to be removed re-
24 ceives a fee from the beneficiary and a suitable vol-

1 unteer fiduciary is available to assist the beneficiary;

2 or

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

5 “(i) not acting in the interest of the bene-
6 ficiary ;or

7 “(ii) unable to effectively serve the bene-
8 ficiary because of an irreconcilable personality
9 conflict or disagreement.

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

14 “(d) INDEPENDENCE.—A fiduciary appointed by the
15 Secretary shall operate independently of the Department
16 to determine the actions that are in the interest of the
17 beneficiary.

18 “(e) PREDESIGNATION.—A veteran may predesignate
19 a fiduciary by—

20 “(1) submitting written notice to the Secretary
21 of the predesignated fiduciary; or

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

24 “(f) APPOINTMENT OF NON-PREDESIGNATED FIDU-
25 CIARY.—If a beneficiary designates an individual to serve

1 as a fiduciary under subsection (e) and the Secretary ap-
2 points an individual not so designated as the fiduciary for
3 such beneficiary, the Secretary shall notify such bene-
4 ficiary of—

5 “(1) the reason why such designated individual
6 was not appointed; and

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

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

13 “(1) a relative of the beneficiary;

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

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

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

“5502. Appointment of fiduciaries.”.

22 (b) SUPERVISION.—

23 (1) IN GENERAL.—Chapter 55 of title 38,
24 United States Code, is amended by inserting after

1 section 5502, as amended by subsection (a)(1), the
2 following new section:

3 **“§ 5502A. Supervision of fiduciaries**

4 “(a) COMMISSION.—(1)(A) In a case in which the
5 Secretary determines that a commission is necessary in
6 order to obtain the services of a fiduciary in the best inter-
7 ests of a beneficiary, the Secretary may authorize a fidu-
8 ciary appointed by the Secretary to obtain from the
9 monthly benefits provided to the beneficiary a reasonable
10 commission for fiduciary services rendered, but the com-
11 mission for any month may not exceed the lesser of the
12 following amounts:

13 “(i) The amount that equals three percent
14 of the monthly monetary benefits under laws
15 administered by the Secretary paid on behalf of
16 the beneficiary to the fiduciary.

17 “(ii) \$35.

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

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

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

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

8 “(2) Where, in the opinion of the Secretary, any fidu-
9 ciary receiving funds on behalf of a Department bene-
10 ficiary is acting in such a number of cases as to make
11 it impracticable to conserve properly the estates or to su-
12 pervise the persons of the beneficiaries, the Secretary may
13 refuse to make future payments in such cases as the Sec-
14 retary may deem proper.

15 “(b) COURT.—Whenever it appears that any fidu-
16 ciary, in the opinion of the Secretary, is not properly exe-
17 cuting or has not properly executed the duties of the trust
18 of such fiduciary or has collected or paid, or is attempting
19 to collect or pay, fees, commissions, or allowances that are
20 inequitable or in excess of those allowed by law for the
21 duties performed or expenses incurred, or has failed to
22 make such payments as may be necessary for the benefit
23 of the ward or the dependents of the ward, then the Sec-
24 retary may appear, by the Secretary’s authorized attorney,
25 in the court which has appointed such fiduciary, or in any

1 court having original, concurrent, or appellate jurisdiction
2 over said cause, and make proper presentation of such
3 matters. The Secretary, in the Secretary's discretion, may
4 suspend payments to any such fiduciary who shall neglect
5 or refuse, after reasonable notice, to render an account
6 to the Secretary from time to time showing the application
7 of such payments for the benefit of such incompetent or
8 minor beneficiary, or who shall neglect or refuse to admin-
9 ister the estate according to law. The Secretary may re-
10 quire the fiduciary, as part of such account, to disclose
11 any additional financial information concerning the bene-
12 ficiary (except for information that is not available to the
13 fiduciary). The Secretary may appear or intervene by the
14 Secretary's duly authorized attorney in any court as an
15 interested party in any litigation instituted by the Sec-
16 retary or otherwise, directly affecting money paid to such
17 fiduciary under this section.

18 “(c) PAYMENT OF CERTAIN EXPENSES.—Authority
19 is hereby granted for the payment of any court or other
20 expenses incident to any investigation or court proceeding
21 for the appointment of any fiduciary or other person for
22 the purpose of payment of benefits payable under laws ad-
23 ministered by the Secretary or the removal of such fidu-
24 ciary and appointment of another, and of expenses in con-
25 nection with the administration of such benefits by such

1 fiduciaries, or in connection with any other court pro-
2 ceeding hereby authorized, when such payment is author-
3 ized by the Secretary.

4 “(d) TEMPORARY PAYMENT OF BENEFITS.—All or
5 any part of any benefits the payment of which is sus-
6 pended or withheld under this section may, in the discre-
7 tion of the Secretary, be paid temporarily to the person
8 having custody and control of the incompetent or minor
9 beneficiary, to be used solely for the benefit of such bene-
10 ficiary, or, in the case of an incompetent veteran, may be
11 apportioned to the dependent or dependents, if any, of
12 such veteran. Any part not so paid and any funds of a
13 mentally incompetent or insane veteran not paid to the
14 chief officer of the institution in which such veteran is a
15 patient nor apportioned to the veteran’s dependent or de-
16 pendants may be ordered held in the Treasury to the credit
17 of such beneficiary. All funds so held shall be disbursed
18 under the order and in the discretion of the Secretary for
19 the benefit of such beneficiary or the beneficiary’s depend-
20 ents. Any balance remaining in such fund to the credit
21 of any beneficiary may be paid to the beneficiary if the
22 beneficiary recovers and is found competent, or if a minor,
23 attains majority, or otherwise to the beneficiary’s fidu-
24 ciary, or, in the event of the beneficiary’s death, to the
25 beneficiary’s personal representative, except as otherwise

1 provided by law; however, payment will not be made to
2 the beneficiary's personal representative if, under the law
3 of the beneficiary's last legal residence, the beneficiary's
4 estate would escheat to the State. In the event of the death
5 of a mentally incompetent or insane veteran, all gratuitous
6 benefits under laws administered by the Secretary depos-
7 ited before or after August 7, 1959, in the personal funds
8 of patients trust fund on account of such veteran shall
9 not be paid to the personal representative of such veteran,
10 but shall be paid to the following persons living at the
11 time of settlement, and in the order named: The surviving
12 spouse, the children (without regard to age or marital sta-
13 tus) in equal parts, and the dependent parents of such
14 veteran, in equal parts. If any balance remains, such bal-
15 ance shall be deposited to the credit of the applicable cur-
16 rent appropriation; except that there may be paid only so
17 much of such balance as may be necessary to reimburse
18 a person (other than a political subdivision of the United
19 States) who bore the expenses of last sickness or burial
20 of the veteran for such expenses. No payment shall be
21 made under the two preceding sentences of this subsection
22 unless claim therefor is filed with the Secretary within five
23 years after the death of the veteran, except that, if any
24 person so entitled under said two sentences is under legal
25 disability at the time of death of the veteran, such five-

1 year period of limitation shall run from the termination
2 or removal of the legal disability.

3 “(e) ESCHEATMENT.—Any funds in the hands of a
4 fiduciary appointed by a State court or the Secretary de-
5 rived from benefits payable under laws administered by
6 the Secretary, which under the law of the State wherein
7 the beneficiary had last legal residence would escheat to
8 the State, shall escheat to the United States and shall be
9 returned by such fiduciary, or by the personal representa-
10 tive of the deceased beneficiary, less legal expenses of any
11 administration necessary to determine that an escheat is
12 in order, to the Department, and shall be deposited to the
13 credit of the applicable revolving fund, trust fund, or ap-
14 propriation.

15 “(f) ASSISTANCE.—The Secretary shall provide to a
16 fiduciary appointed under section 5502 of this title mate-
17 rials and tools to assist the fiduciary in carrying out the
18 responsibilities of the fiduciary under this chapter, includ-
19 ing—

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

23 “(2) tools located on an Internet website, in-
24 cluding forms to submit to the Secretary required
25 information; and

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

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

“5502A. Supervision of fiduciaries.”.

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

9 (1) by striking “For purposes” and inserting
10 “(a) For purposes”; and

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

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

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

18 “(B) any State or local government agency with
19 fiduciary responsibilities; or

20 “(C) any nonprofit social service agency that
21 the Secretary determines—

22 “(i) regularly provides services as a fidu-
23 ciary concurrently to five or more individuals;

24 and

1 “(ii) is not a creditor of any such indi-
2 vidual.

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

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

11 **“§ 5507. Inquiry, investigations, and qualification of**
12 **fiduciaries**

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

17 “(1) an inquiry or investigation by the Sec-
18 retary of the fitness of that person to serve as fidu-
19 ciary for that beneficiary to be conducted in advance
20 of such certification and in accordance with sub-
21 section (b);

22 “(2) adequate evidence that certification of that
23 person as fiduciary for that beneficiary is in the in-
24 terest of such beneficiary (as determined by the Sec-
25 retary under regulations);

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

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

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

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

13 “(B) a background check of the proposed fidu-
14 ciary to—

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

18 “(ii) determine whether the proposed fidu-
19 ciary will serve the best interest of the bene-
20 ficiary, including by conducting a credit check
21 of the proposed fiduciary and checking the
22 records under paragraph (5).

23 “(2) The Secretary shall request information con-
24 cerning whether that person has been convicted of any of-
25 fense under Federal or State law. If that person has been

1 convicted of such an offense, the Secretary may certify the
2 person as a fiduciary only if the Secretary finds that the
3 person is an appropriate person to act as fiduciary for the
4 beneficiary concerned under the circumstances.

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

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

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

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

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

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

17 “(B) had such fiduciary status revoked by the
18 Secretary.

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

24 “(B) A crime described in this subparagraph is a
25 crime—

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

3 “(ii) that is not included in a report submitted
4 by the fiduciary under section 5509(a) of this title;
5 and

6 “(iii) that the Secretary determines could affect
7 the ability of the fiduciary to act on behalf of the
8 beneficiary.

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

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

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

22 “(B) the spouse or parent of an incompetent
23 beneficiary;

1 “(C) a person who has been appointed a fidu-
2 ciary of the beneficiary by a court of competent ju-
3 risdiction;

4 “(D) being appointed to manage an estate
5 where the annual amount of veterans benefits to be
6 managed by the proposed fiduciary does not exceed
7 \$3,600, as adjusted pursuant to section 5312 of this
8 title; or

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

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

14 “(A) protect the private information of a bene-
15 ficiary, including personally identifiable information;
16 and

17 “(B) securely conducts financial transactions.

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

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

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

3 “(B) if such veracity is established, transmit to
4 the officials described in paragraph (2) a report of
5 such investigation.

6 “(2) The officials described in this paragraph are the
7 following:

8 “(A) The Attorney General.

9 “(B) Each head of a Federal department or
10 agency that pays to a fiduciary or other person ben-
11 efits under any law administered by such depart-
12 ment of agency for the use and benefit of a minor,
13 incompetent, or other beneficiary.

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

17 “(1) the existence of any familial or other per-
18 sonal relationship between the proposed fiduciary
19 and the beneficiary; and

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

22 “(g) LIST OF FIDUCIARIES.—Each regional office of
23 the Veterans Benefits Administration shall maintain a list
24 of the following:

1 “(1) The name and contact information of each
2 fiduciary, including address, telephone number, and
3 email address.

4 “(2) With respect to each fiduciary described in
5 paragraph (1)—

6 “(A) the date of the most recent back-
7 ground check and credit check performed by the
8 Secretary under this section;

9 “(B) the date that any bond was paid
10 under this section;

11 “(C) the name, address, and telephone
12 number of each beneficiary the fiduciary acts on
13 behalf of; and

14 “(D) the amount that the fiduciary con-
15 trols with respect to each beneficiary described
16 in subparagraph (C).”.

17 (e) ANNUAL RECEIPT OF PAYMENTS.—

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

20 (A) in subsection (a)——

21 (i) by striking “may require a fidu-
22 ciary to file a” and inserting “shall require
23 a fiduciary to file an annual”; and

24 (ii) by adding at the end the following
25 new sentence: “The Secretary shall trans-

1 mit such annual report or accounting to
2 the beneficiary and any legal guardian of
3 such beneficiary.”;

4 (B) by adding at the end the following new
5 subsections:

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

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

11 “(A) the amount of the benefits of the ben-
12 eficiary provided under any law administered by
13 the Secretary accrued during the year, the
14 amount spent, and the amount remaining; and

15 “(B) if the fiduciary serves the beneficiary
16 with respect to benefits not administered by the
17 Secretary, an accounting of all sources of bene-
18 fits or other income the fiduciary oversees for
19 the beneficiary.

20 “(2) A list of events that occurred during the
21 year covered by the report that could affect the abil-
22 ity of the fiduciary to act on behalf of the bene-
23 ficiary, including—

24 “(A) the fiduciary being convicted of any
25 crime;

1 “(B) the fiduciary declaring bankruptcy;

2 and

3 “(C) any judgments entered against the fi-

4 duciary.

5 “(d) RANDOM AUDITS.—The Secretary shall annu-

6 ally conduct random audits of fiduciaries who receive a

7 commission pursuant to subsection 5502A(a)(1) of this

8 title.

9 “(e) STATUS OF FIDUCIARY.—If a fiduciary includes

10 in the annual report events described in subsection (c)(2),

11 the Secretary may take appropriate action to adjust the

12 status of the fiduciary as the Secretary determines appro-

13 priate, including by revoking the fiduciary status of the

14 fiduciary.

15 “(f) CAREGIVERS AND CERTAIN OTHER FIDU-

16 CIARIES.—(1)(A) In carrying out this section, the Sec-

17 retary shall ensure that a caregiver fiduciary is required

18 only to file an annual report or accounting under sub-

19 section (a) with respect to the amount of the benefits of

20 the beneficiary provided under any law administered by

21 the Secretary—

22 “(i) spent on—

23 “(I) food and housing for the bene-

24 ficiary; and

1 “(II) clothing, health-related expenses,
2 recreation, and other personal items for
3 the beneficiary; and

4 “(ii) saved for the beneficiary.

5 “(B) The Secretary shall coordinate with the Under
6 Secretary for Benefits and the Under Secretary for Health
7 to—

8 “(i) minimize the frequency with which employ-
9 ees of the Department visit the home of a caregiver
10 fiduciary and beneficiary; and

11 “(ii) limit the extent of supervision by such
12 Under Secretaries with respect to such a fiduciary
13 and beneficiary.

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

16 “(i) in addition to acting as a fiduciary for a
17 beneficiary, is approved by the Secretary to be a
18 provider of personal care services for the beneficiary
19 under paragraph (3)(A)(i) of section 1720G(a) of
20 this title;

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

1 “(iii) has not been required by the Secretary to
2 take corrective action pursuant to paragraph (9)(C)
3 of such section.

4 “(2) In carrying out this section, the Secretary may
5 adjust the matters required under an annual report or ac-
6 counting under subsection (a) with respect to a fiduciary
7 whom the Secretary determines to have effectively pro-
8 tected the interests of the beneficiary over a sustained pe-
9 riod.”; and

10 (C) by striking the section heading and in-
11 serting the following: “**Annual reports and**
12 **accountings of fiduciaries**”.

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 55 of title 38,
15 United States Code, is amended by striking the item
16 relating to section 5509 and inserting the following
17 new item:

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

18 (f) REPAYMENT OF MISUSED BENEFITS.—Section
19 6107(a)(2)(C) of title 38, United States Code, is amended
20 by inserting before the period the following: “, including
21 by the Secretary not acting in accordance with section
22 5507 of this title”.

23 (g) ANNUAL REPORTS.—Section 5510 of title 38,
24 United States Code, is amended by striking “The Sec-
25 retary shall include in the Annual Benefits Report of the

- 1 \$345,000,000 in awards or bonuses under chapter 45 or
- 2 53 of title 5, United States Code, or any other awards
- 3 or bonuses authorized under such title.

Amend the title so as to read: “A bill 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.”.

