

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 3388

To amend title 38, United States Code, to improve benefits administered by the Secretary of Veterans Affairs, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. TESTER

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the

5 “Veterans Benefits Improvement Act of 2021”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for

7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—BOARD OF VETERANS’ APPEALS MATTERS

Sec. 101. Board of Veterans’ Appeals internship program.

Sec. 102. Pilot program on establishment of Board of Veterans’ Appeals honors program.

Sec. 103. Report on improving access to Board of Veterans’ Appeals telehearings.

TITLE II—MEDICAL DISABILITY EXAM MATTERS

- Sec. 201. Improving requirement to publish disability benefit questionnaire forms of Department of Veterans Affairs.
- Sec. 202. Report on improving medical disability examinations for veterans who live abroad.
- Sec. 203. Department of Veterans Affairs requirement for communication by contractors providing covered medical disability examinations with persons recognized by power of attorney for preparation, presentation, and prosecution of claims.
- Sec. 204. Department of Veterans Affairs outreach regarding contact information for contractors providing covered medical disability examinations.

TITLE III—OTHER MATTERS

- Sec. 301. Report on supporting governmental veterans service officers.
- Sec. 302. Facilitating Department of Veterans Affairs contractor access to federal tax return information necessary for claims processing.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CLAIMANT.—The term “claimant” has the
 4 meaning given that term in section 5100 of title 38,
 5 United States Code.

6 (2) DEPARTMENT.—The term “Department”
 7 means the Department of Veterans Affairs.

8 (3) SECRETARY.—The term “Secretary” means
 9 the Secretary of Veterans Affairs.

10 **TITLE I—BOARD OF VETERANS’**
 11 **APPEALS MATTERS**

12 **SEC. 101. BOARD OF VETERANS’ APPEALS INTERNSHIP**
 13 **PROGRAM.**

14 (a) IN GENERAL.—Chapter 71 of title 38, United
 15 States Code, is amended by adding at the end the fol-
 16 lowing new section:

1 **“§ 7114. Internship program**

2 “The Secretary shall establish a competitive intern-
3 ship program within the Department for the purpose of
4 providing an opportunity for high-achieving students at
5 law schools accredited by the American Bar Association
6 to gain experience with the Board.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 71 of such title is amended
9 by adding at the end the following new item:

“7114. Internship program.”.

10 (c) DEADLINE.—The Secretary shall establish the in-
11 ternship program required by section 7114 of such title,
12 as added by subsection (a), not later than one year after
13 the date of the enactment of this Act.

14 **SEC. 102. PILOT PROGRAM ON ESTABLISHMENT OF BOARD**
15 **OF VETERANS’ APPEALS HONORS PROGRAM.**

16 (a) ESTABLISHMENT.—Not later than one year after
17 the date of the enactment of this Act, the Secretary shall
18 establish a pilot program to assess the feasibility and ad-
19 visability of establishing a competitive honors program
20 within the Department for the purpose of recruiting high-
21 achieving law school students, recent law school graduates,
22 and entry-level attorneys for employment with the Board.

23 (b) DURATION.—The Secretary shall carry out the
24 pilot program required by subsection (a) during the nine-

1 year period beginning on the date of the establishment of
2 the pilot program.

3 (c) HONORS PROGRAM.—

4 (1) IN GENERAL.—Under the pilot program re-
5 quired by subsection (a), the Secretary shall carry
6 out a competitive honors program as described in
7 such subsection.

8 (2) PRIORITY CONSIDERATION.—The Secretary
9 shall give priority consideration in application for
10 the honors program to individuals who successfully
11 complete the internship program established under
12 section 7114 of title 38, United States Code, as
13 added by section 101(a).

14 (3) STUDENT LOAN REPAYMENT BENEFITS.—

15 (A) IN GENERAL.—The Secretary shall
16 provide student loan repayment benefits under
17 section 5379 of title 5, United States Code, to
18 each participant in the pilot program who is eli-
19 gible for student loan repayment benefits under
20 such section.

21 (B) AGREEMENTS.—The Secretary shall
22 enter into an agreement with each participant
23 in the pilot program who will receive benefits
24 described in subparagraph (A), in accordance
25 with such section.

1 (C) COMMITMENT.— An agreement de-
2 scribed in subparagraph (B) shall include a re-
3 quirement that the participant will remain in
4 the service of the Department for a period of
5 not less than three years, unless involuntarily
6 separated, in accordance with subsection (c) of
7 such section.

8 (4) PROFESSIONAL DEVELOPMENT ACTIVI-
9 TIES.—

10 (A) ASSIGNMENT OF MENTORS.—Not later
11 than 90 days after the date on which an indi-
12 vidual begins participating in the pilot program
13 required by subsection (a), the Secretary shall
14 assign the participant a mentor who is a mana-
15 gerial employee of the Department outside the
16 participant's chain of command.

17 (B) ASSIGNMENTS TO OFFICE OF GENERAL
18 COUNSEL.—

19 (i) IN GENERAL.—The Secretary shall
20 provide each participant in the pilot pro-
21 gram at least one assignment within the
22 Office of General Counsel of the Depart-
23 ment that includes full-time legal respon-
24 sibilities in order to further the profes-
25 sional development of the participant.

1 (ii) PERIOD OF ASSIGNMENT.—An as-
2 signment provided under clause (i) shall be
3 for a period of not less than 120 days and
4 not more than 180 days, or longer at the
5 discretion of the Secretary.

6 (C) OTHER ROTATIONAL ASSIGNMENTS.—

7 (i) IN GENERAL.—The Secretary may
8 provide a participant in the pilot program
9 one or more other short-term rotational as-
10 signments.

11 (ii) PERIOD OF ASSIGNMENT.—An as-
12 signment provided under clause (i) shall be
13 for a period of not less than 30 days and
14 not more than 180 days, at the discretion
15 of the Secretary.

16 (d) PERIODIC REPORTS.—

17 (1) REPORTS REQUIRED.—Not later than three
18 years after the date on which the Secretary first ac-
19 cepts a participant into the honors program carried
20 out under subsection (c)(1) and not less frequently
21 than once every three years thereafter for the dura-
22 tion of the pilot program, the Secretary shall submit
23 to the Committee on Veterans' Affairs of the Senate
24 and the Committee on Veterans' Affairs of the

1 House of Representatives a report on the findings of
2 the Secretary with respect to the pilot program.

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

5 (A) The findings of the Secretary with re-
6 spect to the feasibility and advisability of estab-
7 lishing a competitive honors program as de-
8 scribed in subsection (a).

9 (B) Such recommendations as the Sec-
10 retary may have for legislative or administrative
11 action to improve recruitment and retention of
12 staff at the Board of Veterans' Appeals.

13 **SEC. 103. REPORT ON IMPROVING ACCESS TO BOARD OF**
14 **VETERANS' APPEALS TELEHEARINGS.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of the enactment of this Act, the Secretary shall sub-
17 mit to the Committee on Veterans' Affairs of the Senate
18 and the Committee on Veterans' Affairs of the House of
19 Representatives a report on improving access to hearings
20 before the Board of Veterans' Appeals held by picture and
21 voice transmission.

22 (b) CONTENTS.—The report required by subsection
23 (a) shall include the following:

24 (1) Recommendations on the feasibility and ad-
25 visability of reimbursing veterans for expenses in-

1 curred for travel from the home of a veteran to the
2 location at which a hearing before the Board of Vet-
3 erans' Appeals is held by picture and voice trans-
4 mission, if the Secretary determines that travel to
5 such location is reasonably necessary for such a
6 hearing;

7 (2) Recommendations on establishment of pilot
8 programs to assess the feasibility and advisability of
9 using other methods that could improve veteran ac-
10 cess to hearings before the Board of Veterans' Ap-
11 peals held by picture and voice transmission from a
12 veteran's home.

13 (3) Such other recommendations to improve ac-
14 cess to hearings before the Board of Veterans' Ap-
15 peals held by picture and voice transmission as the
16 Secretary may receive from stakeholders.

17 **TITLE II—MEDICAL DISABILITY**
18 **EXAM MATTERS**

19 **SEC. 201. IMPROVING REQUIREMENT TO PUBLISH DIS-**
20 **ABILITY BENEFIT QUESTIONNAIRE FORMS**
21 **OF DEPARTMENT OF VETERANS AFFAIRS.**

22 Section 5101(d) of title 38, United States Code, is
23 amended—

1 (1) in paragraph (1)(A), by striking “; and”
2 and inserting “, including (except as provided in
3 paragraph (4)(A))—

4 “(i) all disability benefit questionnaire
5 forms available to personnel of the Veterans
6 Health Administration and contracted per-
7 sonnel for the completion of compensation and
8 pension examinations; and

9 “(ii) all factsheets available to such per-
10 sonnel to inform completion of such examina-
11 tions; and”;

12 (2) by adding at the end the following new
13 paragraph:

14 “(4)(A) The Secretary may exclude from publication
15 under clauses (i) and (ii) of paragraph (1)(A) any form
16 described in subparagraph (B) of this paragraph that the
17 Secretary determines could not reasonably be completed
18 to a clinically acceptable standard by someone not an em-
19 ployee or a contractor of the Department.

20 “(B) A form described in this subparagraph is a form
21 that—

22 “(i) was in effect after January 1, 2020; and

23 “(ii) has not been published under paragraph

24 (1).

1 “(C) For each form excluded under subparagraph
2 (A), the Secretary shall—

3 “(i) list the form on the same internet website
4 as the forms published under paragraph (1)(A) with
5 an indication that the form has been excluded; and

6 “(ii) provide with such listing a justification for
7 such exclusion.”.

8 **SEC. 202. REPORT ON IMPROVING MEDICAL DISABILITY EX-**
9 **AMINATIONS FOR VETERANS WHO LIVE**
10 **ABROAD.**

11 Not later than one year after the date of the enact-
12 ment of this Act, the Secretary shall submit to the Com-
13 mittee on Veterans’ Affairs of the Senate and the Com-
14 mittee on Veterans’ Affairs of the House of Representa-
15 tives a report on the efforts of the Secretary to provide
16 reimbursement for a veteran’s travel to a Department fa-
17 cility or a facility of a Department-contracted provider, re-
18 gardless of whether the facility is inside or outside the
19 United States, when such travel is incident to a scheduled
20 compensation and pension examination.

1 **SEC. 203. DEPARTMENT OF VETERANS AFFAIRS REQUIRE-**
2 **MENT FOR COMMUNICATION BY CONTRAC-**
3 **TORS PROVIDING COVERED MEDICAL DIS-**
4 **ABILITY EXAMINATIONS WITH PERSONS REC-**
5 **OGNIZED BY POWER OF ATTORNEY FOR**
6 **PREPARATION, PRESENTATION, AND PROS-**
7 **ECUTION OF CLAIMS.**

8 (a) IN GENERAL.—In each contract entered into by
9 the Secretary after the date of the enactment of this Act
10 for the provision by a contractor of a covered medical dis-
11 ability examination, the Secretary shall include a require-
12 ment that every communication from a contractor to a vet-
13 eran regarding the scheduling of a covered medical dis-
14 ability examination be contemporaneously transmitted to
15 the person recognized by a power of attorney executed
16 under sections 5902, 5903, and 5904 of title 38, United
17 States Code, for the preparation, presentation, and pros-
18 ecution of claims.

19 (b) DEFINITION.—In this section, the term “covered
20 medical disability examination” means a medical examina-
21 tion that the Secretary determines necessary for the pur-
22 poses of adjudicating a benefit under chapter 11 or 15
23 of title 38, United States Code.

1 **SEC. 204. DEPARTMENT OF VETERANS AFFAIRS OUTREACH**
2 **REGARDING CONTACT INFORMATION FOR**
3 **CONTRACTORS PROVIDING COVERED MED-**
4 **ICAL DISABILITY EXAMINATIONS.**

5 Not later than 120 days after the date of enactment
6 of this Act, the Secretary of Veterans Affairs shall, in
7 partnership with veterans service organizations and such
8 other stakeholders as the Secretary considers relevant and
9 appropriate, implement an informative outreach program
10 for veterans regarding the following:

11 (1) Contact information for contractors pro-
12 viding covered medical disability examinations, in-
13 cluding the telephone numbers from which such con-
14 tractors may contact veterans.

15 (2) The requirement for veterans to provide
16 personally identifiable information when contacted
17 by such contractors in order to verify their identity.

18 **TITLE III—OTHER MATTERS**

19 **SEC. 301. REPORT ON SUPPORTING GOVERNMENTAL VET-**
20 **ERANS SERVICE OFFICERS.**

21 (a) REPORT.—Not later than one year after the date
22 of the enactment of this Act and after consulting veterans
23 service organizations and such other stakeholders as the
24 Secretary considers relevant and appropriate, the Sec-
25 retary shall submit to the Committee on Veterans' Affairs
26 of the Senate and the Committee on Veterans' Affairs of

1 the House of Representatives a report on improving the
2 support by the Department of Veterans Affairs of govern-
3 mental veterans service officers.

4 (b) ELEMENTS.—The report submitted under sub-
5 section (a) shall include the following:

6 (1) ENHANCED ACCESS TO SYSTEMS.—An as-
7 sessment of the feasibility and current technical limi-
8 tations of providing governmental veterans service
9 officers enhanced access to certain Department sys-
10 tems to better serve veterans those governmental
11 service officers may not have authorization to rep-
12 resent.

13 (2) INTERGOVERNMENTAL LIAISONS.—An as-
14 sessment as to whether the Department would ben-
15 efit from the establishment or designation of an of-
16 fice or working group within the Department to
17 serve as an intergovernmental liaison between the
18 Department and governmental veterans service offi-
19 cers.

20 (3) OTHER.—Any other recommendations to
21 improve how the Department monitors, coordinates
22 with, or provides support to governmental veterans
23 service officers.

24 (c) DEFINITIONS.—In this section:

1 (1) GOVERNMENTAL VETERANS SERVICE OFFI-
2 CER.—The term “governmental veterans service offi-
3 cer” means an employee of a State, county, munic-
4 ipal, or Tribal government—

5 (A) who is accredited by at least one vet-
6 erans service organization to serve as a veterans
7 service officer; and

8 (B) whose primary responsibilities include
9 working as such an officer.

10 (2) VETERANS SERVICE ORGANIZATION.—The
11 term “veterans service organization” means an orga-
12 nization recognized by the Secretary for the rep-
13 resentation of veterans under section 5902 of title
14 38, United States Code.

15 **SEC. 302. FACILITATING DEPARTMENT OF VETERANS AF-**
16 **FAIRS CONTRACTOR ACCESS TO FEDERAL**
17 **TAX RETURN INFORMATION NECESSARY FOR**
18 **CLAIMS PROCESSING.**

19 (a) IN GENERAL.—Section 6103(l)(7) of the Internal
20 Revenue Code of 1986 is amended by adding at the end
21 the following new subparagraph:

22 “(E) REDISCLOSURES.—

23 “(i) IN GENERAL.—Officers and em-
24 ployees of the Department of Veterans Af-
25 fairs who are specifically designated by the

1 Secretary of Veterans Affairs may redis-
2 close return information described in sub-
3 paragraphs (A) and (B) to contractors of
4 such Department administering (or assist-
5 ing in administering) a program listed in
6 subparagraph (D)(viii).

7 “(ii) RESTRICTIONS ON USE OF IN-
8 FORMATION.—Information disclosed under
9 this subparagraph shall be disclosed only
10 for purposes of, and to the extent nec-
11 essary in, determining eligibility for, or the
12 correct amount of, benefits under a pro-
13 gram listed in subparagraph (D)(viii).”.

14 (b) CONFORMING AMENDMENT.—Section 6103(a)(3)
15 of such Code is amended by inserting “(7)(E),” after
16 “(6),”.

17 (c) SAFEGUARDS.—Section 6103(p)(4) of such Code
18 is amended by striking “subsection (l)(10)” each place it
19 appears and inserting “subsection (l)(7), (10)”.