

118TH CONGRESS
1ST SESSION

S. 3452

To authorize the Secretary of Veterans Affairs to determine the eligibility or entitlement of a member or former member of the Armed Forces described in subsection (a) to a benefit under a law administered by the Secretary solely based on alternative sources of evidence when the military service records or medical treatment records of the member or former member are incomplete because of damage or loss of records after being in the possession of the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

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

A BILL

To authorize the Secretary of Veterans Affairs to determine the eligibility or entitlement of a member or former member of the Armed Forces described in subsection (a) to a benefit under a law administered by the Secretary solely based on alternative sources of evidence when the military service records or medical treatment records of the member or former member are incomplete because of damage or loss of records after being in the possession of the Federal Government, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fred Hamilton Vet-
3 erans’ Lost Records Act”.

4 **SEC. 2. AUTHORITY TO DETERMINE ELIGIBILITY AND ENTI-**
5 **TLEMENT TO VETERANS BENEFITS USING AL-**
6 **TERNATIVE SOURCES OF EVIDENCE WHEN**
7 **SERVICE RECORDS ARE INCOMPLETE BE-**
8 **CAUSE OF DAMAGE OR LOSS AFTER BEING IN**
9 **POSSESSION OF FEDERAL GOVERNMENT.**

10 (a) **AUTHORITY TO DETERMINE ELIGIBILITY AND**
11 **ENTITLEMENT TO BENEFITS USING ALTERNATIVE**
12 **SOURCES OF EVIDENCE.**—The Secretary of Veterans Af-
13 fairs may determine the eligibility or entitlement of a
14 member or former member of the Armed Forces to a ben-
15 efit under a law administered by the Secretary solely based
16 on alternative sources of evidence in a case in which the
17 military service records or medical treatment records of
18 the member or former member are incomplete because of
19 damage or loss of records after being in the possession
20 of the Federal Government.

21 (b) **REGULATIONS.**—Not later than one year after the
22 date of the enactment of this Act, the Secretary of Vet-
23 erans Affairs, in consultation with the Secretary of De-
24 fense and the Archivist of the United States, shall promul-
25 gate regulations regarding the use by the Secretary of Vet-

1 erans Affairs of alternative sources of evidence under sub-
2 section (a).

3 (c) EFFECTIVE DATES OF AWARDS.—In the case of
4 a claim of a member or former member of the Armed
5 Forces with military service records or medical treatment
6 records described in subsection (a), paragraph (2) of sec-
7 tion 5110(a) of title 38, United States Code, shall apply
8 except for any limitation based on the date of a request,
9 supplemental claim, or notice described in such paragraph.

10 (d) ALTERNATIVE SOURCE OF EVIDENCE DE-
11 FINED.—In this section, the term “alternative sources of
12 evidence” means—

13 (1) in the case of a former member of the
14 Armed Forces, a medical disability examination oc-
15 ccurring soonest after the former member’s date of
16 discharge or release from service in the active mili-
17 tary, naval, air, or space service;

18 (2) in the case of a claim regarding a disability
19 incurred or aggravated during service in the active
20 military, naval, air, or space service, the assertion of
21 former member of the Armed Forces regarding the
22 circumstances surrounding its incurrence or aggra-
23 vation;

24 (3) a credible buddy statement; or

1 (4) such other sources of evidence or processes
2 as the Secretary of Veterans Affairs deems appro-
3 priate for purposes of determining eligibility or enti-
4 tlement under subsection (a).

○