

Calendar No. 947

110TH CONGRESS
2D SESSION

S. 3023

[Report No. 110-449]

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to prescribe regulations relating to the notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2008

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

SEPTEMBER 9, 2008

Reported by Mr. AKAKA, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to prescribe regulations relating to the notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims.

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 “Veterans’ Notice Clari-
3 fication Act of 2008”.

4 **SEC. 2. REGULATIONS ON CONTENTS OF NOTICE TO BE**
5 **PROVIDED CLAIMANTS WITH THE DEPART-**
6 **MENT OF VETERANS AFFAIRS REGARDING**
7 **THE SUBSTANTIATION OF CLAIMS.**

8 Section 5103(a) of title 38, United States Code, is
9 amended—

10 (1) by inserting “(1)” before “Upon receipt”;
11 and

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

14 “(2)(A) The Secretary shall prescribe in regulations
15 requirements relating to the contents of notice to be pro-
16 vided under this subsection.

17 “(B) The regulations required by this paragraph—

18 “(i) shall specify different contents for notice
19 depending on whether the claim concerned is an
20 original claim, a claim for reopening a prior decision
21 on a claim, or a claim for increase in benefits;

22 “(ii) may provide additional or alternative con-
23 tents for notice if appropriate to the benefit or serv-
24 ices sought under the claim;

25 “(iii) shall specify for each type of claim for
26 benefits the general information and evidence re-

1 quired to substantiate the basic elements of such
2 type of claim; and

3 ~~“(iv) shall specify the timing of the issuance of~~
4 ~~notice.”.~~

5 **SECTION 1. SHORT TITLE.**

6 (a) *SHORT TITLE.*—*This Act may be cited as the “Vet-*
7 *erans’ Benefits Improvement Act of 2008”.*

8 (b) *TABLE OF CONTENTS.*—*The table of contents for*
9 *this Act is as follows:*

Sec. 1. Short title.

Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Regulations on contents of notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims.

Sec. 102. Judicial review of adoption and revision by the Secretary of Veterans Affairs of the schedule of ratings for disabilities of veterans.

Sec. 103. Automatic annual increase in rates of disability compensation and dependency and indemnity compensation.

Sec. 104. Conforming amendment relating to non-deductibility from veterans’ disability compensation of disability severance pay for disabilities incurred by members of the Armed Forces in combat zones.

Sec. 105. Report on progress of the Secretary of Veterans Affairs in addressing causes for variances in compensation payments for veterans for service-connected disabilities.

Sec. 106. Report on studies regarding compensation of veterans for loss of earning capacity and quality of life and on long-term transition payments to veterans undergoing rehabilitation for service-connected disabilities.

TITLE II—HOUSING MATTERS

Sec. 201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.

Sec. 202. Enhancement of refinancing of home loans by veterans.

Sec. 203. Four-year extension of demonstration projects on adjustable rate mortgages.

Sec. 204. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with a service-connected disability.

Sec. 205. Report on impact of mortgage foreclosures on veterans.

TITLE III—LABOR AND EDUCATION MATTERS

Subtitle A—Labor and Employment Matters

- Sec. 301. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.*
- Sec. 302. Reform of USERRA complaint process.*
- Sec. 303. Modification and expansion of reporting requirements with respect to enforcement of USERRA.*
- Sec. 304. Training for executive branch human resources personnel on employment and reemployment rights of members of the uniformed services.*
- Sec. 305. Report on the employment needs of Native American veterans living on tribal lands.*
- Sec. 306. Report on measures to assist and encourage veterans in completing vocational rehabilitation.*

Subtitle B—Education Matters

- Sec. 311. Relief for students who discontinue education because of military service.*
- Sec. 312. Modification of period of eligibility for Survivors' and Dependents' Educational Assistance of certain spouses of individuals with service-connected disabilities total and permanent in nature.*
- Sec. 313. Repeal of requirement for report to the Secretary of Veterans Affairs on prior training.*
- Sec. 314. Modification of waiting period before affirmation of enrollment in a correspondence course.*
- Sec. 315. Change of programs of education at the same educational institution.*
- Sec. 316. Repeal of certification requirement with respect to applications for approval of self-employment on-job training.*

Subtitle C—Other Matters

- Sec. 321. Designation of the Office of Small Business Programs of the Department of Veterans Affairs.*

TITLE IV—COURT MATTERS

- Sec. 401. Increase in number of active judges on the United States Court of Appeals for Veterans Claims.*
- Sec. 402. Protection of privacy and security concerns in court records.*
- Sec. 403. Recall of retired judges of the United States Court of Appeals for Veterans Claims.*
- Sec. 404. Annual reports on workload of the United States Court of Appeals for Veterans Claims.*

TITLE V—INSURANCE MATTERS

- Sec. 501. Report on inclusion of severe and acute Post Traumatic Stress Disorder among conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance.*
- Sec. 502. Treatment of stillborn children as insurable dependents under Servicemembers' Group Life Insurance.*
- Sec. 503. Other enhancements of Servicemembers' Group Life Insurance coverage.*

TITLE VI—OTHER MATTERS

Sec. 601. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.

Sec. 602. Memorial headstones and markers for deceased remarried surviving spouses of veterans.

Sec. 603. Three-year extension of authority to carry out income verification.

Sec. 604. Three-year extension of temporary authority for the performance of medical disability examinations by contract physicians.

1 SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms of
4 an amendment to, or repeal of, a section or other provision,
5 the reference shall be considered to be made to a section or
6 other provision of title 38, United States Code.

7 TITLE I—COMPENSATION AND
8 PENSION MATTERS

9 SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE
10 PROVIDED CLAIMANTS WITH THE DEPART-
11 MENT OF VETERANS AFFAIRS REGARDING
12 THE SUBSTANTIATION OF CLAIMS.

13 (a) IN GENERAL.—Section 5103(a) is amended—

14 (1) by inserting “(1)” before “Upon receipt”;
15 and

16 (2) by adding at the end the following new para-
17 graph:

18 “(2)(A) The Secretary shall prescribe in regulations re-
19 quirements relating to the contents of notice to be provided
20 under this subsection.

21 “(B) The regulations required by this paragraph—

1 “(i) shall specify different contents for notice de-
 2 pending on whether the claim concerned is an origi-
 3 nal claim, a claim for reopening a prior decision on
 4 a claim, or a claim for increase in benefits;

5 “(ii) may provide additional or alternative con-
 6 tents for notice if appropriate to the benefit or serv-
 7 ices sought under the claim;

8 “(iii) shall specify for each type of claim for ben-
 9 efits the general information and evidence required to
 10 substantiate the basic elements of such type of claim;
 11 and

12 “(iv) shall specify the time period limitations re-
 13 quired pursuant to subsection (b).”.

14 (b) *APPLICABILITY.*—The regulations required by
 15 paragraph (2) of section 5103(a) of title 38, United States
 16 Code (as amended by subsection (a) of this section), shall
 17 apply with respect to notices provided to claimants on or
 18 after the effective date of such regulations.

19 **SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION**
 20 **BY THE SECRETARY OF VETERANS AFFAIRS**
 21 **OF THE SCHEDULE OF RATINGS FOR DISABIL-**
 22 **ITIES OF VETERANS.**

23 Section 502 is amended by striking “(other than an
 24 action relating to the adoption or revision of the schedule

1 *of ratings for disabilities adopted under section 1155 of this*
 2 *title)’’.*

3 **SEC. 103. AUTOMATIC ANNUAL INCREASE IN RATES OF DIS-**
 4 **ABILITY COMPENSATION AND DEPENDENCY**
 5 **AND INDEMNITY COMPENSATION.**

6 *(a) INDEXING TO SOCIAL SECURITY INCREASES.—Sec-*
 7 *tion 5312 is amended by adding at the end the following*
 8 *new subsection:*

9 *“(d)(1) Whenever there is an increase in benefit*
 10 *amounts payable under title II of the Social Security Act*
 11 *(42 U.S.C. 401 et seq.) as a result of a determination made*
 12 *under section 215(i) of such Act (42 U.S.C. 415(i)), the Sec-*
 13 *retary shall, effective on the date of such increase in benefit*
 14 *amounts, increase the dollar amounts in effect for the pay-*
 15 *ment of disability compensation and dependency and in-*
 16 *demnity compensation by the Secretary, as specified in*
 17 *paragraph (2), as such amounts were in effect immediately*
 18 *prior to the date of such increase in benefit amounts pay-*
 19 *able under title II of the Social Security Act, by the same*
 20 *percentage as the percentage by which such benefit amounts*
 21 *are increased.*

22 *“(2) The dollar amounts to be increased pursuant to*
 23 *paragraph (1) are the following:*

24 *“(A) COMPENSATION.—Each of the dollar*
 25 *amounts in effect under section 1114 of this title.*

1 “(B) *ADDITIONAL COMPENSATION FOR DEPEND-*
 2 *ENTS.—Each of the dollar amounts in effect under*
 3 *section 1115(1) of this title.*

4 “(C) *CLOTHING ALLOWANCE.—The dollar*
 5 *amount in effect under section 1162 of this title.*

6 “(D) *NEW DIC RATES.—Each of the dollar*
 7 *amounts in effect under paragraphs (1) and (2) of*
 8 *section 1311(a) of this title.*

9 “(E) *OLD DIC RATES.—Each of the dollar*
 10 *amounts in effect under section 1311(a)(3) of this*
 11 *title.*

12 “(F) *ADDITIONAL DIC FOR SURVIVING SPOUSES*
 13 *WITH MINOR CHILDREN.—The dollar amount in effect*
 14 *under section 1311(b) of this title.*

15 “(G) *ADDITIONAL DIC FOR DISABILITY.—Each of*
 16 *the dollar amounts in effect under sections 1311(c)*
 17 *and 1311(d) of this title.*

18 “(H) *DIC FOR DEPENDENT CHILDREN.—Each of*
 19 *the dollar amounts in effect under sections 1313(a)*
 20 *and 1314 of this title.*

21 “(3) *Whenever there is an increase under paragraph*
 22 *(1) in amounts in effect for the payment of disability com-*
 23 *ensation and dependency and indemnity compensation,*
 24 *the Secretary shall publish such amounts, as increased pur-*
 25 *suant to such paragraph, in the Federal Register at the*

1 same time as the material required by section 215(i)(2)(D)
 2 of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is pub-
 3 lished by reason of a determination under section 215(i)
 4 of such Act (42 U.S.C. 415(i)).”.

5 (b) *EFFECTIVE DATE.*—Subsection (d) of section 5312
 6 of title 38, United States Code, as added by subsection (a)
 7 of this section, shall take effect on December 1, 2009.

8 **SEC. 104. CONFORMING AMENDMENT RELATING TO NON-**
 9 **DEDUCTIBILITY FROM VETERANS’ DISABILITY**
 10 **COMPENSATION OF DISABILITY SEVERANCE**
 11 **PAY FOR DISABILITIES INCURRED BY MEM-**
 12 **BERS OF THE ARMED FORCES IN COMBAT**
 13 **ZONES.**

14 (a) *CONFORMING AMENDMENT.*—Section 1646 of the
 15 Wounded Warrior Act (title XVI of Public Law 110–181;
 16 122 Stat. 472) is amended—

17 (1) by redesignating subsection (c) as subsection
 18 (d); and

19 (2) by inserting after subsection (b) the following
 20 new subsection (c):

21 “(c) *CONFORMING AMENDMENT.*—Section 1161 of title
 22 38, United States Code, is amended by striking ‘as required
 23 by section 1212(c) of title 10’ and inserting ‘to the extent
 24 required by section 1212(d) of title 10’.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
 2 *section (a) shall take effect on January 28, 2008 (the date*
 3 *of the enactment of the Wounded Warrior Act), as if in-*
 4 *cluded in that Act, to which they relate.*

5 **SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF**
 6 **VETERANS AFFAIRS IN ADDRESSING CAUSES**
 7 **FOR VARIANCES IN COMPENSATION PAY-**
 8 **MENTS FOR VETERANS FOR SERVICE-CON-**
 9 **NECTED DISABILITIES.**

10 (a) *REPORT REQUIRED.*—*Not later than one year*
 11 *after the date of the enactment of this Act, the Secretary*
 12 *of Veterans Affairs shall submit to the Committee on Vet-*
 13 *erans' Affairs of the Senate and the Committee on Veterans'*
 14 *Affairs of the House of Representatives a report describing*
 15 *the progress of the Secretary in addressing the causes of un-*
 16 *acceptable variances in compensation payments for vet-*
 17 *erans for service-connected disabilities.*

18 (b) *ELEMENTS.*—*The report required under subsection*
 19 *(a) shall include the following:*

20 (1) *A description of the efforts of the Veterans*
 21 *Benefits Administration to coordinate with the Vet-*
 22 *erans Health Administration to improve the quality*
 23 *of examinations of veterans with service-connected*
 24 *disabilities that are performed by the Veterans Health*
 25 *Administration and contract clinicians, including ef-*

1 *forts relating to the use of approved templates for*
2 *such examinations and of reports on such examina-*
3 *tions that are based on such templates prepared in an*
4 *easily-readable format.*

5 *(2) An assessment of the current personnel re-*
6 *quirements of the Veterans Benefits Administration,*
7 *including an assessment of the adequacy of the num-*
8 *ber of personnel assigned to each regional office of the*
9 *Administration for each type of claim adjudication*
10 *position.*

11 *(3) A description of the differences, if any, in*
12 *current patterns of submittal rate of claims to the*
13 *Secretary of Veterans Affairs regarding service-con-*
14 *necting disabilities among various populations of vet-*
15 *erans, including veterans living in rural and highly*
16 *rural areas, minority veterans, veterans who served in*
17 *the National Guard or Reserve, and veterans who are*
18 *retired from the Armed Forces, and a description and*
19 *assessment of efforts undertaken to eliminate such dif-*
20 *ferences.*

1 **SEC. 106. REPORT ON STUDIES REGARDING COMPENSA-**
 2 **TION OF VETERANS FOR LOSS OF EARNING**
 3 **CAPACITY AND QUALITY OF LIFE AND ON**
 4 **LONG-TERM TRANSITION PAYMENTS TO VET-**
 5 **ERANS UNDERGOING REHABILITATION FOR**
 6 **SERVICE-CONNECTED DISABILITIES.**

7 (a) *FINDING.*—Congress finds that the Secretary of
 8 Veterans Affairs entered into a contract in February 2008
 9 to conduct two studies as follows:

10 (1) *A study on the appropriate levels of dis-*
 11 *ability compensation to be paid to veterans to com-*
 12 *pensate for loss of earning capacity and quality of life*
 13 *as a result of service-related disabilities.*

14 (2) *A study on the feasibility and appropriate*
 15 *level of long-term transition payments to veterans*
 16 *who are separated from the Armed Forces due to dis-*
 17 *ability while such veterans are undergoing rehabilita-*
 18 *tion for such disability.*

19 (b) *REPORT REQUIRED.*—

20 (1) *IN GENERAL.*—The Secretary of Veterans Af-
 21 fairs shall submit to Congress a report on the studies
 22 referred to in subsection (a).

23 (2) *ELEMENTS.*—The report required by this
 24 subsection shall include the following:

25 (A) *A comprehensive description of the find-*
 26 *ings and recommendations of the studies.*

1 *(B) A description of the actions proposed to*
2 *be taken by the Secretary in light of such find-*
3 *ings and recommendations, including a descrip-*
4 *tion of any modification of the schedule for rat-*
5 *ing disabilities of veterans under section 1155 of*
6 *title 38, United States Code, proposed to be un-*
7 *dertaken by the Secretary and of any other*
8 *modification of policy or regulations proposed to*
9 *be undertaken by the Secretary.*

10 *(C) For each action proposed to be taken as*
11 *described in subparagraph (B), a proposed*
12 *schedule for the taking of such action, including*
13 *a schedule for the commencement and completion*
14 *of such action.*

15 *(D) A description of any legislative action*
16 *required in order to authorize, facilitate, or en-*
17 *hance the taking of any action proposed to be*
18 *taken as described in subparagraph (B).*

19 *(3) SUBMITTAL DATE.—The report required by*
20 *this subsection shall be submitted not later than 210*
21 *days after the date of the enactment of this Act.*

1 ***TITLE II—HOUSING MATTERS***

2 ***SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUAR-***
3 ***ANTY AMOUNT FOR CERTAIN HOUSING***
4 ***LOANS GUARANTEED BY THE SECRETARY OF***
5 ***VETERANS AFFAIRS.***

6 *Notwithstanding subparagraph (C) of section*
7 *3703(a)(1) of title 38, United States Code, for purposes of*
8 *any loan described in subparagraph (A)(i)(IV) of such sec-*
9 *tion that is originated during the period beginning on the*
10 *date of the enactment of this Act and ending on December*
11 *31, 2011, the term “maximum guaranty amount” shall*
12 *mean an amount equal to 25 percent of the higher of—*

13 *(1) the limitation determined under section*
14 *305(a)(2) of the Federal Home Loan Mortgage Cor-*
15 *poration Act (12 U.S.C. 1454(a)(2)) for the calendar*
16 *year in which the loan is originated for a single-fam-*
17 *ily residence; or*

18 *(2) 125 percent of the area median price for a*
19 *single-family residence, but in no case to exceed 175*
20 *percent of the limitation determined under such sec-*
21 *tion 305(a)(2) for the calendar year in which the loan*
22 *is originated for a single-family residence.*

1 **SEC. 202. ENHANCEMENT OF REFINANCING OF HOME**
 2 **LOANS BY VETERANS.**

3 (a) *INCLUSION OF REFINANCING LOANS AMONG LOANS*
 4 *SUBJECT TO GUARANTY MAXIMUM.*—Section
 5 3703(a)(1)(A)(i)(IV) is amended by inserting “(5),” after
 6 “(3),”.

7 (b) *INCREASE IN MAXIMUM PERCENTAGE OF LOAN-TO-*
 8 *VALUE OF REFINANCING LOANS SUBJECT TO GUARANTY.*—
 9 Section 3710(b)(8) is amended by striking “90 percent” and
 10 inserting “95 percent”.

11 **SEC. 203. FOUR-YEAR EXTENSION OF DEMONSTRATION**
 12 **PROJECTS ON ADJUSTABLE RATE MORT-**
 13 **GAGES.**

14 (a) *DEMONSTRATION PROJECT ON ADJUSTABLE RATE*
 15 *MORTGAGES.*—Section 3707(a) is amended by striking
 16 “during fiscal years 1993 through 2008” and inserting
 17 “during the period beginning with the beginning of fiscal
 18 year 1993 and ending at the end of fiscal year 2012”.

19 (b) *DEMONSTRATION PROJECT ON HYBRID ADJUST-*
 20 *ABLE RATE MORTGAGES.*—Section 3707A(a) is amended by
 21 striking “through 2008” and inserting “through 2012”.

1 **SEC. 204. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING**
 2 **BENEFITS AND ASSISTANCE FOR MEMBERS**
 3 **OF THE ARMED FORCES WITH A SERVICE-**
 4 **CONNECTED DISABILITY.**

5 *The Secretary of Veterans Affairs may provide assist-*
 6 *ance under chapter 21 of title 38, United States Code, to*
 7 *a member of the Armed Forces serving on active duty who*
 8 *is suffering from a disability described in section 2101 of*
 9 *such title if such disability is the result of an injury in-*
 10 *curred or disease contracted in or aggravated in line of duty*
 11 *in the active military, naval, or air service. Such assistance*
 12 *shall be provided to the same extent, and subject to the same*
 13 *limitations, as assistance is provided to veterans under*
 14 *chapter 21 of such title.*

15 **SEC. 205. REPORT ON IMPACT OF MORTGAGE FORE-**
 16 **CLOSURES ON VETERANS.**

17 *(a) REPORT REQUIRED.—Not later than December 31,*
 18 *2009, the Secretary of Veterans Affairs shall submit to the*
 19 *Committee on Veterans' Affairs of the Senate and the Com-*
 20 *mittee on Veterans' Affairs of the House of Representatives*
 21 *a report on the effects of mortgage foreclosures on veterans.*

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

24 *(1) A general assessment of the income of vet-*
 25 *erans who have recently separated from the Armed*
 26 *Forces.*

1 (2) *An assessment of the effects of any lag or*
2 *delay in the adjudication by the Secretary of claims*
3 *of veterans for disability compensation on the capac-*
4 *ity of veterans to maintain adequate or suitable hous-*
5 *ing.*

6 (3) *A description of the extent to which the pro-*
7 *visions of the Servicemembers Civil Relief Act (50*
8 *U.S.C. App. 501 et seq.) protect veterans from mort-*
9 *gage foreclosure, and an assessment of the adequacy*
10 *of such protections.*

11 (4) *A description and assessment of the adequacy*
12 *of the home loan guaranty programs of the Depart-*
13 *ment of Veterans Affairs, including the authorities of*
14 *such programs and the assistance provided individ-*
15 *uals in the utilization of such programs, in pre-*
16 *venting foreclosure for veterans recently separated*
17 *from the Armed Forces, and for members of the*
18 *Armed Forces, who have home loans guaranteed by*
19 *the Secretary.*

1 ***TITLE III—LABOR AND***
 2 ***EDUCATION MATTERS***
 3 ***Subtitle A—Labor and Employment***
 4 ***Matters***

5 ***SEC. 301. WAIVER OF 24-MONTH LIMITATION ON PROGRAM***
 6 ***OF INDEPENDENT LIVING SERVICES AND AS-***
 7 ***SISTANCE FOR VETERANS WITH A SEVERE***
 8 ***DISABILITY INCURRED IN THE POST-9/11***
 9 ***GLOBAL OPERATIONS PERIOD.***

10 *Section 3105(d) is amended—*

11 *(1) by striking “Unless the Secretary” and all*
 12 *that follows through “the period of a program” and*
 13 *inserting “(1) Except as provided in paragraph (2),*
 14 *the period of a program”; and*

15 *(2) by adding at the end the following new para-*
 16 *graph:*

17 *“(2)(A) The period of a program of independent living*
 18 *services and assistance for a veteran under this chapter may*
 19 *exceed twenty-four months as follows:*

20 *“(i) If the Secretary determines that a longer pe-*
 21 *riod is necessary and likely to result in a substantial*
 22 *increase in the veteran’s level of independence in*
 23 *daily living.*

24 *“(ii) If the veteran served on active duty during*
 25 *the Post-9/11 Global Operations period and has a se-*

1 *vere disability (as determined by the Secretary for*
 2 *purposes of this clause) incurred or aggravated in*
 3 *such service.*

4 *“(B) In this paragraph, the term ‘Post-9/11 Global*
 5 *Operations period’ means the period of the Persian Gulf*
 6 *War beginning on September 11, 2001, and ending on the*
 7 *date thereafter prescribed by Presidential proclamation or*
 8 *by law.”.*

9 **SEC. 302. REFORM OF USERRA COMPLAINT PROCESS.**

10 *(a) NOTIFICATION OF RIGHTS WITH RESPECT TO*
 11 *COMPLAINTS.—Subsection (c) of section 4322 is amended*
 12 *to read as follows:*

13 *“(c)(1) Not later than five days after the Secretary re-*
 14 *ceives a complaint submitted by a person under subsection*
 15 *(a), the Secretary shall notify such person in writing of*
 16 *his or her rights with respect to such complaint under this*
 17 *section and section 4323 or 4324, as the case may be.*

18 *“(2) The Secretary shall, upon request, provide tech-*
 19 *nical assistance to a potential claimant with respect to a*
 20 *complaint under this subsection, and when appropriate, to*
 21 *such claimant’s employer.”.*

22 *(b) NOTIFICATION OF RESULTS OF INVESTIGATION IN*
 23 *WRITING.—Subsection (e) of such section is amended by in-*
 24 *serting “in writing” after “submitted the complaint”.*

1 (c) *EXPEDITION OF ATTEMPTS TO INVESTIGATE AND*
 2 *RESOLVE COMPLAINTS.*—Section 4322 is further amend-
 3 ed—

4 (1) by redesignating subsection (f) as subsection
 5 (g); and

6 (2) by inserting after subsection (e) the following
 7 new subsection (f):

8 “(f) Any action required by subsections (d) and (e)
 9 with respect to a complaint submitted by a person to the
 10 Secretary under subsection (a) shall be completed by the
 11 Secretary not later than 90 days after receipt of such com-
 12 plaint.”.

13 (d) *EXPEDITION OF REFERRALS.*—

14 (1) *EXPEDITION OF REFERRALS TO ATTORNEY*
 15 *GENERAL.*—Section 4323(a)(1) is amended by insert-
 16 ing “Not later than 60 days after the Secretary re-
 17 ceives such a request with respect to a complaint, the
 18 Secretary shall refer the complaint to the Attorney
 19 General.” after “to the Attorney General.”.

20 (2) *EXPEDITION OF REFERRALS TO SPECIAL*
 21 *COUNSEL.*—Section 4324(a)(1) is amended by strik-
 22 ing “The Secretary shall refer” and inserting “Not
 23 later than 60 days after the date the Secretary re-
 24 ceives such a request, the Secretary shall refer”.

25 (e) *NOTIFICATION OF REPRESENTATION.*—

1 (1) *NOTIFICATION BY ATTORNEY GENERAL.*—*Sec-*
 2 *tion 4323(a) is further amended—*

3 *(A) by redesignating paragraph (2) as*
 4 *paragraph (3); and*

5 *(B) by inserting after paragraph (1) the fol-*
 6 *lowing new paragraph (2):*

7 “(2) *Not later than 60 days after the date the Attorney*
 8 *General receives a referral under paragraph (1), the Attor-*
 9 *ney General shall—*

10 *“(A) make a decision whether to appear on be-*
 11 *half of, and act as attorney for, the person on whose*
 12 *behalf the complaint is submitted; and*

13 *“(B) notify such person in writing of such deci-*
 14 *sion.”.*

15 (2) *NOTIFICATION BY SPECIAL COUNSEL.*—*Sub-*
 16 *paragraph (B) of section 4324(a)(2) is amended to*
 17 *read as follows:*

18 “(B) *Not later than 60 days after the date the Special*
 19 *Counsel receives a referral under paragraph (1), the Special*
 20 *Counsel shall—*

21 *“(i) make a decision whether to represent a per-*
 22 *son before the Merit Systems Protection Board under*
 23 *subparagraph (A); and*

24 *“(ii) notify such person in writing of such deci-*
 25 *sion.”.*

1 (f) *DEADLINES, STATUTES OF LIMITATIONS, AND RE-*
 2 *LATED MATTERS.*—

3 (1) *IN GENERAL.*—Subchapter III of chapter 43
 4 *is amended by adding at the end the following new*
 5 *section:*

6 **“§4327. Noncompliance of Federal officials with**
 7 ***deadlines; inapplicability of statutes of***
 8 ***limitations***

9 “(a) *EFFECT OF NONCOMPLIANCE OF FEDERAL OFFI-*
 10 *CIALS WITH DEADLINES.*—(1) *The inability of the Sec-*
 11 *retary, the Attorney General, or the Special Counsel to com-*
 12 *ply with a deadline applicable to such official under section*
 13 *4322, 4323, or 4324 of this title—*

14 “(A) *shall not affect the authority of the Attor-*
 15 *ney General or the Special Counsel to represent and*
 16 *file an action or submit a complaint on behalf of a*
 17 *person under section 4323 or 4324 of this title;*

18 “(B) *shall not affect the right of a person—*

19 “(i) *to commence an action under section*
 20 *4323 of this title;*

21 “(ii) *to submit a complaint under section*
 22 *4324 of this title; or*

23 “(iii) *to obtain any type of assistance or re-*
 24 *lief authorized by this chapter;*

1 “(C) shall not deprive a Federal court, the Merit
 2 Systems Protection Board, or a State court of juris-
 3 diction over an action or complaint filed by the At-
 4 torney General, the Special Counsel, or a person
 5 under section 4323 or 4324 of this title; and

6 “(D) shall not constitute a defense, including a
 7 statute of limitations period, that any employer (in-
 8 cluding a State, a private employer, or a Federal ex-
 9 ecutive agency) or the Office of Personnel Manage-
 10 ment may raise in an action filed by the Attorney
 11 General, the Special Counsel, or a person under sec-
 12 tion 4323 or 4324 of this title.

13 “(2) If the Secretary, the Attorney General, or the Spe-
 14 cial Counsel is unable to meet a deadline applicable to such
 15 official in section 4322(f), 4323(a)(1), 4323(a)(2),
 16 4324(a)(1), or 4324(a)(2)(B) of this title, and the person
 17 agrees to an extension of time, the Secretary, the Attorney
 18 General, or the Special Counsel, as the case may be, shall
 19 complete the required action within the additional period
 20 of time agreed to by the person.

21 “(b) INAPPLICABILITY OF STATUTES OF LIMITA-
 22 TIONS.—If any person seeks to file a complaint or claim
 23 with the Secretary, the Merit Systems Protection Board, or
 24 a Federal or State court under this chapter alleging a viola-

1 *tion of this chapter, there shall be no limit on the period*
 2 *for filing the complaint or claim.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*
 4 *tions at the beginning of chapter 43 is amended by*
 5 *inserting after the item relating to section 4326 the*
 6 *following new item:*

“4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.”.

7 (3) *CONFORMING AMENDMENT.—Section 4323 is*
 8 *further amended—*

9 (A) *by striking subsection (i); and*

10 (B) *by redesignating subsection (j) as sub-*
 11 *section (i).*

12 **SEC. 303. MODIFICATION AND EXPANSION OF REPORTING**
 13 **REQUIREMENTS WITH RESPECT TO ENFORCE-**
 14 **MENT OF USERRA.**

15 (a) *DATE OF ANNUAL REPORTS.—Section 4332 is*
 16 *amended by striking “and no later than February 1, 2005”*
 17 *and all that follows through the “such February 1:” and*
 18 *inserting “, transmit to Congress not later than July 1 each*
 19 *year a report on matters for the fiscal year ending in the*
 20 *year before the year in which such report is transmitted*
 21 *as follows:”.*

22 (b) *MODIFICATION OF ANNUAL REPORTS BY SEC-*
 23 *RETARY.—Such section is further amended—*

1 (1) by striking “The Secretary shall” and insert-
 2 ing “(a) ANNUAL REPORT BY SECRETARY.—The Sec-
 3 retary shall”;

4 (2) in paragraph (3), by inserting before the pe-
 5 riod at the end the following: “and the number of ac-
 6 tions initiated by the Office of Special Counsel before
 7 the Merit Systems Protection Board pursuant to sec-
 8 tion 4324 during such fiscal year”;

9 (3) by redesignating paragraphs (6) and (7) as
 10 paragraphs (9) and (10), respectively;

11 (4) by inserting after paragraph (5) the fol-
 12 lowing new paragraph (8):

13 “(8) With respect to the cases reported on pursu-
 14 ant to paragraphs (1), (2), (3), (4), and (5) the num-
 15 ber of such cases that involve persons with different
 16 occupations or persons seeking different occupations,
 17 as designated by the Standard Occupational Classi-
 18 fication System.”.

19 (5) by redesignating paragraph (5) as para-
 20 graph (7);

21 (6) by inserting after paragraph (4) the fol-
 22 lowing new paragraphs (5) and (6):

23 “(5) The number of cases reviewed by the Sec-
 24 retary and the Secretary of Defense through the Na-
 25 tional Committee for Employer Support of the Guard

1 *and Reserve of the Department of Defense that involve*
 2 *the same person.*

3 “(6) *With respect to the cases reported on pursu-*
 4 *ant to paragraphs (1), (2), (3), (4), and (5)—*

5 “(A) *the number of such cases that involve*
 6 *a disability-related issue; and*

7 “(B) *the number of such cases that involve*
 8 *a person who has a service-connected dis-*
 9 *ability.”; and*

10 (7) *in paragraph (7), as redesignated by para-*
 11 *graph (5) of this subsection, by striking “or (4)” and*
 12 *inserting “(4), or (5)”.*

13 (c) *ADDITIONAL REPORTS.—Such section is further*
 14 *amended by adding at the end the following new subsection:*

15 “(b) *QUARTERLY REPORTS.—*

16 “(1) *QUARTERLY REPORT BY SECRETARY.—Not*
 17 *later than 30 days after the end of each fiscal quarter,*
 18 *the Secretary shall submit to Congress, the Secretary*
 19 *of Defense, the Attorney General, and the Special*
 20 *Counsel a report setting forth, for the previous full*
 21 *quarter, the following:*

22 “(A) *The number of cases for which the Sec-*
 23 *retary did not meet the requirements of section*
 24 *4322(f) of this title.*

1 “(B) *The number of cases for which the Sec-*
 2 *retary received a request for a referral under*
 3 *paragraph (1) of section 4323(a) of this title but*
 4 *did not make such referral within the time pe-*
 5 *riod required by such paragraph.*

6 “(2) *QUARTERLY REPORT BY ATTORNEY GEN-*
 7 *ERAL.—Not later than 30 days after the end of each*
 8 *fiscal quarter, the Attorney General shall submit to*
 9 *Congress, the Secretary, the Secretary of Defense, and*
 10 *the Special Counsel a report setting forth, for the pre-*
 11 *vious full quarter, the number of cases for which the*
 12 *Attorney General received a referral under paragraph*
 13 *(1) of section 4323(a) of this title but did not meet*
 14 *the requirements of paragraph (2) of section 4323(a)*
 15 *of this title for such referral.*

16 “(3) *QUARTERLY REPORT BY SPECIAL COUN-*
 17 *SEL.—Not later than 30 days after the end of each*
 18 *fiscal quarter, the Special Counsel shall submit to*
 19 *Congress, the Secretary, the Secretary of Defense, and*
 20 *the Attorney General a report setting forth, for the*
 21 *previous full quarter, the number of cases for which*
 22 *the Special Counsel received a referral under para-*
 23 *graph (1) of section 4324(a) of this title but did not*
 24 *meet the requirements of paragraph (2)(B) of section*
 25 *4324(a) of this title for such referral.”.*

1 (d) *UNIFORM CATEGORIZATION OF DATA.*—*Such sec-*
 2 *tion is further amended by adding at the end the following*
 3 *new subsection:*

4 “(c) *UNIFORM CATEGORIZATION OF DATA.*—*The Sec-*
 5 *retary shall coordinate with the Secretary of Defense, the*
 6 *Attorney General, and the Special Counsel to ensure that—*

7 “(1) *the information in the reports required by*
 8 *this section is categorized in a uniform way; and*

9 “(2) *the Secretary, the Secretary of Defense, the*
 10 *Attorney General, and the Special Counsel each have*
 11 *electronic access to the case files reviewed under this*
 12 *chapter by the Secretary, the Secretary of Defense, the*
 13 *Attorney General, and the Special Counsel with due*
 14 *regard for the provisions of section 552a of title 5.”.*

15 (e) *COMPTROLLER GENERAL REPORT.*—*Not later than*
 16 *two years after the date of the enactment of this Act, the*
 17 *Comptroller General of the United States shall submit to*
 18 *Congress a report that contains the following:*

19 (1) *An assessment of the reliability of the data*
 20 *contained in the reports submitted under subsection*
 21 *(b) of section 4332 of title 38, United States Code (as*
 22 *amended by subsection (c) of this section), as of the*
 23 *date of such report.*

24 (2) *An assessment of the timeliness of the reports*
 25 *submitted under subsection (b) of section 4332 of title*

1 38, *United States Code* (as so amended), as of such
2 date.

3 (3) *The extent to which the Secretary of Labor*
4 *is meeting the timeliness requirements of subsections*
5 *(c)(1) and (f) of section 4322 of title 38, United*
6 *States Code (as amended by section 302 of this Act),*
7 *and section 4323(a)(1) of title 38, United States Code*
8 *(as so amended), as of the date of such report.*

9 (4) *The extent to which the Attorney General is*
10 *meeting the timeliness requirements of section*
11 *4323(a)(2) of title 38, United States Code (as amend-*
12 *ed by section 302 of this Act), as of the date of such*
13 *report.*

14 (5) *The extent to which the Special Counsel is*
15 *meeting the timeliness requirements of section*
16 *4324(a)(2)(B) of title 38, United States Code (as*
17 *amended by section 302 of this Act), as of the date*
18 *of such report.*

19 (f) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply with respect to each report required*
21 *under section 4332 of title 38, United States Code (as*
22 *amended by this section), after the date of the enactment*
23 *of this Act.*

1 **SEC. 304. TRAINING FOR EXECUTIVE BRANCH HUMAN RE-**
 2 **SOURCES PERSONNEL ON EMPLOYMENT AND**
 3 **REEMPLOYMENT RIGHTS OF MEMBERS OF**
 4 **THE UNIFORMED SERVICES.**

5 (a) *TRAINING REQUIRED.*—Subchapter IV of chapter
 6 43 is amended by adding at the end the following new sec-
 7 tion:

8 **“§ 4335. Training for Federal executive agency human**
 9 **resources personnel on employment and**
 10 **reemployment rights and limitations**

11 “(a) *TRAINING REQUIRED.*—The head of each Federal
 12 executive agency shall provide training for the human re-
 13 sources personnel of such agency on the following:

14 “(1) *The rights, benefits, and obligations of mem-*
 15 *bers of the uniformed services under this chapter.*

16 “(2) *The application and administration of the*
 17 *requirements of this chapter by such agency with re-*
 18 *spect to such members.*

19 “(b) *CONSULTATION.*—The training provided under
 20 subsection (a) shall be developed and provided in consulta-
 21 tion with the Director of the Office of Personnel Manage-
 22 ment.

23 “(c) *FREQUENCY.*—The training under subsection (a)
 24 shall be provided with such frequency as the Director of the
 25 Office of Personnel Management shall specify in order to
 26 ensure that the human resources personnel of Federal execu-

1 *tive agencies are kept fully and currently informed of the*
 2 *matters covered by the training.*

3 “(d) *HUMAN RESOURCES PERSONNEL DEFINED.*—*In*
 4 *this section, the term ‘human resources personnel’, in the*
 5 *case of a Federal executive agency, means any personnel*
 6 *of the agency who are authorized to recommend, take, or*
 7 *approve any personnel action that is subject to the require-*
 8 *ments of this chapter with respect to employees of the agen-*
 9 *cy.’.*”

10 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
 11 *the beginning of chapter 43 is amended by adding at the*
 12 *end the following new item:*

“4335. Training for Federal executive agency human resources personnel on em-
ployment and reemployment rights and limitations.”.

13 **SEC. 305. REPORT ON THE EMPLOYMENT NEEDS OF NATIVE**
 14 **AMERICAN VETERANS LIVING ON TRIBAL**
 15 **LANDS.**

16 (a) *REPORT.*—*Not later than December 1, 2009, the*
 17 *Secretary of Labor shall, in consultation with the Secretary*
 18 *of Veterans Affairs and the Secretary of the Interior, submit*
 19 *to Congress a report assessing the employment needs of Na-*
 20 *tive American (American Indian, Alaska Native, Native*
 21 *Hawaiian, and Pacific Islander) veterans living on tribal*
 22 *lands, including Indian reservations, Alaska Native vil-*
 23 *lages, and Hawaiian Home Lands. The report shall in-*
 24 *clude—*

(1) *a review of current and prior government-to-government relationships between tribal organizations and the Veterans' Employment and Training Service of the Department of Labor; and*

(2) *recommendations for improving employment and job training opportunities for Native American veterans on tribal land, especially through the utilization of resources for veterans.*

(b) *TRIBAL ORGANIZATION DEFINED.—In this section, the term “tribal organization” has the meaning given such term in section 3765(4) of title 38, United States Code.*

SEC. 306. REPORT ON MEASURES TO ASSIST AND ENCOURAGE VETERANS IN COMPLETING VOCATIONAL REHABILITATION.

(a) *STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on measures to assist and encourage veterans in completing vocational rehabilitation. The study shall include an identification of the following:*

(1) *The various factors that may prevent or preclude veterans from completing their vocational rehabilitation plans through the Department of Veterans Affairs or otherwise achieving the vocational rehabilitation objectives of such plans.*

(2) *The actions to be taken by the Secretary to assist and encourage veterans in overcoming the fac-*

1 *tors identified in paragraph (1) and in otherwise*
2 *completing their vocational rehabilitation plans or*
3 *achieving the vocational rehabilitation objectives of*
4 *such plans.*

5 *(b) MATTERS TO BE EXAMINED.—In conducting the*
6 *study required by subsection (a), the Secretary shall exam-*
7 *ine the following:*

8 *(1) Measures utilized in other disability systems*
9 *in the United States, and in other countries, to en-*
10 *courage completion of vocational rehabilitation by*
11 *persons covered by such systems.*

12 *(2) Any studies or survey data available to the*
13 *Secretary that relates to the matters covered by the*
14 *study.*

15 *(3) The extent to which disability compensation*
16 *may be used as an incentive to encourage veterans to*
17 *undergo and complete vocational rehabilitation.*

18 *(4) The report of the Veterans' Disability Bene-*
19 *fits Commission established pursuant to section 1501*
20 *of the National Defense Authorization Act of 2004 (38*
21 *U.S.C. 1101 note).*

22 *(5) The report of the President's Commission on*
23 *Care for America's Returning Wounded Warriors.*

24 *(6) Any other matters that the Secretary con-*
25 *siders appropriate for purposes of the study.*

1 (c) *CONSIDERATIONS.*—*In conducting the study re-*
2 *quired by subsection (a), the Secretary shall consider—*

3 (1) *the extent to which bonus payments or other*
4 *incentives may be used to encourage veterans to com-*
5 *plete their vocational rehabilitation plans or other-*
6 *wise achieve the vocational rehabilitation objectives of*
7 *such plans; and*

8 (2) *such other matters as the Secretary considers*
9 *appropriate.*

10 (d) *CONSULTATION.*—*In conducting the study required*
11 *by subsection (a), the Secretary—*

12 (1) *shall consult with such veterans and military*
13 *service organizations, and with such other public and*
14 *private organizations and individuals, as the Sec-*
15 *retary considers appropriate; and*

16 (2) *may employ consultants.*

17 (e) *REPORT.*—*Not later than 270 days after the com-*
18 *mencement of the study required by subsection (a), the Sec-*
19 *retary shall submit to the Committee on Veterans' Affairs*
20 *of the Senate and the Committee on Veterans' Affairs of*
21 *the House of Representatives a report on the study. The re-*
22 *port shall include the following:*

23 (1) *The findings of the Secretary under the*
24 *study.*

1 (2) *Any recommendations that the Secretary*
 2 *considers appropriate for actions to be taken by the*
 3 *Secretary in light of the study, including a proposal*
 4 *for such legislative or administrative action as the*
 5 *Secretary considers appropriate to implement the rec-*
 6 *ommendations.*

7 ***Subtitle B—Education Matters***

8 ***SEC. 311. RELIEF FOR STUDENTS WHO DISCONTINUE EDU-***
 9 ***CATION BECAUSE OF MILITARY SERVICE.***

10 (a) *IN GENERAL.*—*Title VII of the Servicemembers*
 11 *Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended*
 12 *by adding at the end the following new section:*

13 ***“SEC. 707. TUITION, REENROLLMENT, AND STUDENT LOAN***
 14 ***RELIEF FOR POSTSECONDARY STUDENTS***
 15 ***CALLED TO MILITARY SERVICE.***

16 “(a) *TUITION AND REENROLLMENT.*—*In the case of a*
 17 *servicemember who because of military service discontinues*
 18 *a program of education at a covered institution of higher*
 19 *education that administers a Federal financial aid pro-*
 20 *gram, such institution of higher education shall—*

21 “(1) *refund to such servicemember the tuition*
 22 *and fees paid by such servicemember from personal*
 23 *funds, or from a loan, for the portion of the program*
 24 *of education for which such servicemember did not re-*

1 *ceive academic credit because of such military service;*
 2 *and*

3 *“(2) provide such servicemember an opportunity*
 4 *to reenroll in such program of education with the*
 5 *same educational and academic status such*
 6 *servicemember had when such servicemember discon-*
 7 *tinued such program of education because of such*
 8 *military service.*

9 *“(b) INTEREST RATE LIMITATION ON STUDENT*
 10 *LOANS.—*

11 *“(1) IN GENERAL.—Except as provided in para-*
 12 *graph (2) of this subsection, a student loan shall be*
 13 *considered an obligation or liability for the purposes*
 14 *of section 207.*

15 *“(2) EXCEPTION.—Subsection (c) of section 207*
 16 *shall not apply to a student loan.*

17 *“(c) DEFINITIONS.—In this section:*

18 *“(1) The term ‘covered institution of higher edu-*
 19 *cation’ means a 2-year or 4-year institution of higher*
 20 *education as defined in section 102 of the Higher*
 21 *Education Act of 1965 (20 U.S.C. 1002) that partici-*
 22 *pates in a loan program under title IV of that Act*
 23 *(20 U.S.C. 1070 et seq.).*

24 *“(2) The term ‘Federal financial aid program’*
 25 *means a program providing loans made, insured, or*

1 *guaranteed under part B, D, or E of title IV of the*
 2 *Higher Education Act of 1965 (20 U.S.C. 1077 et*
 3 *seq., 1087a et seq., 1087aa et seq.).*

4 “(3) *The term ‘student loan’ means any loan,*
 5 *whether Federal, State, or private, to assist an indi-*
 6 *vidual to attend an institution of higher education,*
 7 *including a loan made, insured, or guaranteed under*
 8 *part B, D, or E of title IV of the Higher Education*
 9 *Act of 1965 (20 U.S.C. 1077 et seq., 1087a et seq.,*
 10 *1087aa et seq.).”.*

11 (b) *CLERICAL AMENDMENT.—The table of contents in*
 12 *section (1)(b) of such Act is amended by adding at the end*
 13 *the following new item:*

“Sec. 707. Tuition, reenrollment, and student loan relief for postsecondary stu-
dents called to military service.”.

14 (c) *EFFECTIVE DATE.—The amendments made by this*
 15 *section shall take effect for periods of military service begin-*
 16 *ning after the date of the enactment of this section.*

17 **SEC. 312. MODIFICATION OF PERIOD OF ELIGIBILITY FOR**
 18 **SURVIVORS’ AND DEPENDENTS’ EDU-**
 19 **CATIONAL ASSISTANCE OF CERTAIN SPOUSES**
 20 **OF INDIVIDUALS WITH SERVICE-CONNECTED**
 21 **DISABILITIES TOTAL AND PERMANENT IN NA-**
 22 **TURE.**

23 *Section 3512(b)(1) is amended—*

1 (1) in subparagraph (A), by striking “subpara-
 2 graph (B) or (C)” and inserting “subparagraph (B),
 3 (C), or (D)”; and

4 (2) by adding at the end the following new sub-
 5 paragraph:

6 “(D) Notwithstanding subparagraph (A), an eligible
 7 person referred to in that subparagraph who is made eligi-
 8 ble under section 3501(a)(1)(D)(i) of this title by reason
 9 of a service-connected disability that was determined to be
 10 a total disability permanent in nature not later than three
 11 years after discharge from service may be afforded edu-
 12 cational assistance under this chapter during the 20-year
 13 period beginning on the date the disability was so deter-
 14 mined to be a total disability permanent in nature, but
 15 only if the eligible person remains the spouse of the disabled
 16 person throughout the period.”.

17 **SEC. 313. REPEAL OF REQUIREMENT FOR REPORT TO THE**
 18 **SECRETARY OF VETERANS AFFAIRS ON PRIOR**
 19 **TRAINING.**

20 Section 3676(c)(4) is amended by striking “and the
 21 Secretary”.

1 **SEC. 314. MODIFICATION OF WAITING PERIOD BEFORE AF-**
 2 **FIRMATION OF ENROLLMENT IN A COR-**
 3 **RESPONDENCE COURSE.**

4 *Section 3686(b) is amended by striking “ten” and in-*
 5 *serting “five”.*

6 **SEC. 315. CHANGE OF PROGRAMS OF EDUCATION AT THE**
 7 **SAME EDUCATIONAL INSTITUTION.**

8 *Section 3691(d) is amended—*

9 *(1) by redesignating paragraphs (1), (2), (3),*
 10 *and (4) as subparagraphs (A), (B), (C), and (D), re-*
 11 *spectively;*

12 *(2) by inserting “(1)” after “(d)”;*

13 *(3) in subparagraph (C) of paragraph (1), as re-*
 14 *designated by paragraphs (1) and (2) of this section,*
 15 *by striking “or” at the end;*

16 *(4) in subparagraph (D) of paragraph (1), as so*
 17 *redesignated, by striking the period at the end and*
 18 *inserting “; or”; and*

19 *(5) by adding at the end the following:*

20 *“(E) the change from the program to another*
 21 *program is at the same educational institution and*
 22 *such educational institution determines that the new*
 23 *program is suitable to the aptitudes, interests, and*
 24 *abilities of the veteran or eligible person and certifies*
 25 *to the Secretary the enrollment of the veteran or eligi-*
 26 *ble person in the new program.*

1 “(2) *A veteran or eligible person undergoing a change*
 2 *from one program of education to another program of edu-*
 3 *cation as described in paragraph (1)(E) shall not be re-*
 4 *quired to apply to the Secretary for approval of such*
 5 *change.*”.

6 **SEC. 316. REPEAL OF CERTIFICATION REQUIREMENT WITH**
 7 **RESPECT TO APPLICATIONS FOR APPROVAL**
 8 **OF SELF-EMPLOYMENT ON-JOB TRAINING.**

9 *Section 3677(b) is amended by adding at the end the*
 10 *following new paragraph:*

11 “(3) *The requirement for certification under para-*
 12 *graph (1) shall not apply to training described in section*
 13 *3452(e)(2) of this title.*”.

14 ***Subtitle C—Other Matters***

15 **SEC. 321. DESIGNATION OF THE OFFICE OF SMALL BUSI-**
 16 **NESS PROGRAMS OF THE DEPARTMENT OF**
 17 **VETERANS AFFAIRS.**

18 (a) *DESIGNATION.*—*The Office of Small Business Pro-*
 19 *grams of the Department of Veterans Affairs is the office*
 20 *that is established within the Office of the Secretary of Vet-*
 21 *erans Affairs under section 15(k) of the Small Business Act*
 22 *(15 U.S.C. 644(k)).*

23 (b) *HEAD.*—*The Director of Small Business Programs*
 24 *is the head of the Office of Small Business Programs of the*
 25 *Department of Veterans Affairs.*

1 ***TITLE IV—COURT MATTERS***

2 ***SEC. 401. INCREASE IN NUMBER OF ACTIVE JUDGES ON***
3 ***THE UNITED STATES COURT OF APPEALS FOR***
4 ***VETERANS CLAIMS.***

5 *Section 7253(a) is amended by striking “seven judges”*
6 *and inserting “nine judges”.*

7 ***SEC. 402. PROTECTION OF PRIVACY AND SECURITY CON-***
8 ***CERNS IN COURT RECORDS.***

9 *Section 7268 is amended by adding at the end the fol-*
10 *lowing new subsection:*

11 *“(c)(1) The Court shall prescribe rules, in accordance*
12 *with section 7264(a) of this title, to protect privacy and*
13 *security concerns relating to all filing of documents and the*
14 *public availability under this subsection of documents re-*
15 *tained by the Court or filed electronically with the Court.*

16 *“(2) The rules prescribed under paragraph (1) shall*
17 *be consistent to the extent practicable with rules addressing*
18 *privacy and security issues throughout the Federal courts.*

19 *“(3) The rules prescribed under paragraph (1) shall*
20 *take into consideration best practices in Federal and State*
21 *courts to protect private information or otherwise maintain*
22 *necessary information security.”.*

1 **SEC. 403. RECALL OF RETIRED JUDGES OF THE UNITED**
 2 **STATES COURT OF APPEALS FOR VETERANS**
 3 **CLAIMS.**

4 *(a) REPEAL OF LIMIT ON SERVICE OF RECALLED RE-*
 5 *TIRED JUDGES WHO VOLUNTARILY SERVE MORE THAN 90*
 6 *DAYS.—Section 7257(b)(2) is amended by striking “or for*
 7 *more than a total of 180 days (or the equivalent) during*
 8 *any calendar year”.*

9 *(b) NEW JUDGES RECALLED AFTER RETIREMENT RE-*
 10 *CEIVE PAY OF CURRENT JUDGES ONLY DURING PERIOD*
 11 *OF RECALL.—*

12 *(1) IN GENERAL.—Section 7296(c) is amended*
 13 *by striking paragraph (1) and inserting the following*
 14 *new paragraph:*

15 *“(1)(A) A judge who is appointed on or after the date*
 16 *of the enactment of the Veterans’ Benefits Improvement Act*
 17 *of 2008 and who retires under subsection (b) and elects*
 18 *under subsection (d) to receive retired pay under this sub-*
 19 *section shall (except as provided in paragraph (2)) receive*
 20 *retired pay as follows:*

21 *“(i) In the case of a judge who is a recall-eligible*
 22 *retired judge under section 7257 of this title, the re-*
 23 *tired pay of the judge shall (subject to section*
 24 *7257(d)(2) of this title) be the rate of pay applicable*
 25 *to that judge at the time of retirement, as adjusted*
 26 *from time to time under subsection (f)(3).*

1 “(ii) *In the case of a judge other than a recall-*
2 *eligible retired judge, the retired pay of the judge shall*
3 *be the rate of pay applicable to that judge at the time*
4 *of retirement.*

5 “(B) *A judge who retired before the date of the enact-*
6 *ment of the Veterans’ Benefits Improvement Act of 2008 and*
7 *elected under subsection (d) to receive retired pay under this*
8 *subsection, or a judge who retires under subsection (b) and*
9 *elects under subsection (d) to receive retired pay under this*
10 *subsection, shall (except as provided in paragraph (2)) re-*
11 *ceive retired pay as follows:*

12 “(i) *In the case of a judge who is a recall-eligible*
13 *retired judge under section 7257 of this title or who*
14 *was a recall-eligible retired judge under that section*
15 *and was removed from recall status under subsection*
16 *(b)(4) of that section by reason of disability, the re-*
17 *tired pay of the judge shall be the pay of a judge of*
18 *the court.*

19 “(ii) *In the case of a judge who at the time of*
20 *retirement did not provide notice under section 7257*
21 *of this title of availability for service in a recalled*
22 *status, the retired pay of the judge shall be the rate*
23 *of pay applicable to that judge at the time of retire-*
24 *ment.*

1 “(iii) *In the case of a judge who was a recall-*
 2 *eligible retired judge under section 7257 of this title*
 3 *and was removed from recall status under subsection*
 4 *(b)(3) of that section, the retired pay of the judge*
 5 *shall be the pay of the judge at the time of the re-*
 6 *moval from recall status.”.*

7 (2) *COST-OF-LIVING ADJUSTMENT FOR RETIRED*
 8 *PAY OF NEW JUDGES WHO ARE RECALL-ELIGIBLE.—*
 9 *Section 7296(f)(3)(A) is amended by striking “para-*
 10 *graph (2) of subsection (c)” and inserting “paragraph*
 11 *(1)(A)(i) or (2) of subsection (c)”.*

12 (3) *PAY DURING PERIOD OF RECALL.—Sub-*
 13 *section (d) of section 7257 is amended to read as fol-*
 14 *lows:*

15 “(d)(1) *The pay of a recall-eligible retired judge to*
 16 *whom section 7296(c)(1)(B) of this title applies is the pay*
 17 *specified in that section.*

18 “(2) *A judge who is recalled under this section who*
 19 *retired under chapter 83 or 84 of title 5 or to whom section*
 20 *7296(c)(1)(A) of this title applies shall be paid, during the*
 21 *period for which the judge serves in recall status, pay at*
 22 *the rate of pay in effect under section 7253(e) of this title*
 23 *for a judge performing active service, less the amount of*
 24 *the judge’s annuity under the applicable provisions of chap-*

1 *ter 83 or 84 of title 5 or the judge’s annuity under section*
 2 *7296(c)(1)(A) of this title, whichever is applicable.”.*

3 (4) *NOTICE.—The last sentence of section*
 4 *7257(a)(1) is amended to read as follows: “Such a no-*
 5 *tice provided by a retired judge to whom section*
 6 *7296(c)(1)(B) of this title applies is irrevocable.”.*

7 (c) *LIMITATION ON INVOLUNTARY RECALLS.—Section*
 8 *7257(b)(3) is amended by adding at the end the following*
 9 *new sentence: “This paragraph shall not apply to a judge*
 10 *to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title*
 11 *applies and who has, in the aggregate, served at least five*
 12 *years of recalled service on the Court under this section.”.*

13 **SEC. 404. ANNUAL REPORTS ON WORKLOAD OF THE UNITED**
 14 **STATES COURT OF APPEALS FOR VETERANS**
 15 **CLAIMS.**

16 (a) *IN GENERAL.—Subchapter III of chapter 72 is*
 17 *amended by adding at the end the following new section:*

18 **“§ 7288. Annual report**

19 “(a) *IN GENERAL.—The chief judge of the Court shall*
 20 *submit to the appropriate committees of Congress each year*
 21 *a report summarizing the workload of the Court for the fis-*
 22 *cal year ending during the preceding year.*

23 “(b) *ELEMENTS.—Each report under subsection (a)*
 24 *shall include, with respect to the fiscal year covered by such*
 25 *report, the following information:*

1 “(1) *The number of appeals filed with the Court.*

2 “(2) *The number of petitions filed with the*
3 *Court.*

4 “(3) *The number of applications filed with the*
5 *Court under section 2412 of title 28.*

6 “(4) *The total number of dispositions by each of*
7 *the following:*

8 “(A) *The Court as a whole.*

9 “(B) *The Clerk of the Court.*

10 “(C) *A single judge of the Court.*

11 “(D) *A multi-judge panel of the Court.*

12 “(E) *The full Court.*

13 “(5) *The number of each type of disposition by*
14 *the Court, including settlement, affirmation, remand,*
15 *vacation, dismissal, reversal, grant, and denial.*

16 “(6) *The median time from filing an appeal to*
17 *disposition by each of the following:*

18 “(A) *The Court as a whole.*

19 “(B) *The Clerk of the Court.*

20 “(C) *A single judge of the Court.*

21 “(D) *Multiple judges of the Court (includ-*
22 *ing a multi-judge panel of the Court or the full*
23 *Court).*

24 “(7) *The median time from filing a petition to*
25 *disposition by the Court.*

1 “(8) *The median time from filing an application*
 2 *under section 2412 of title 28 to disposition by the*
 3 *Court.*

4 “(9) *The median time from the completion of*
 5 *briefing requirements by the parties to disposition by*
 6 *the Court.*

7 “(10) *The number of oral arguments before the*
 8 *Court.*

9 “(11) *The number of cases appealed to the*
 10 *United States Court of Appeals for the Federal Cir-*
 11 *cuit.*

12 “(12) *The number and status of appeals and pe-*
 13 *titions pending with the Court and of applications*
 14 *described in paragraph (3) as of the end of such fiscal*
 15 *year.*

16 “(13) *The number of cases pending with the*
 17 *Court more than 18 months as of the end of such fis-*
 18 *cal year.*

19 “(14) *A summary of any service performed for*
 20 *the Court by a recalled retired judge of the Court.*

21 “(c) *APPROPRIATE COMMITTEES OF CONGRESS DE-*
 22 *FINED.—In this section, the term ‘appropriate committees*
 23 *of Congress’ means—*

24 “(1) *the Committee on Veterans’ Affairs of the*
 25 *Senate; and*

1 “(2) the Committee on Veterans’ Affairs of the
2 House of Representatives.”.

3 (b) CLERICAL AMENDMENT.—The table of sections at
4 the beginning of chapter 72 is amended by inserting after
5 the item related to section 7287 the following new item:

“7288. Annual report.”.

6 **TITLE V—INSURANCE MATTERS**

7 **SEC. 501. REPORT ON INCLUSION OF SEVERE AND ACUTE**

8 **POST TRAUMATIC STRESS DISORDER AMONG**

9 **CONDITIONS COVERED BY TRAUMATIC IN-**

10 **JURY PROTECTION COVERAGE UNDER**

11 **SERVICEMEMBERS’ GROUP LIFE INSURANCE.**

12 (a) REPORT REQUIRED.—Not later than 180 days
13 after the date of the enactment of this Act, the Secretary
14 of Veterans Affairs shall, in consultation with the Secretary
15 of Defense, submit to the appropriate committees of Con-
16 gress a report setting forth the assessment of the Secretary
17 of Veterans Affairs as to the feasibility and advisability
18 of including severe and acute Post Traumatic Stress Dis-
19 order (PTSD) among the conditions covered by traumatic
20 injury protection coverage under Servicemembers’ Group
21 Life Insurance under section 1980A of title 38, United
22 States Code.

23 (b) CONSIDERATIONS.—In preparing the assessment
24 required by subsection (a), the Secretary of Veterans Affairs
25 shall consider the following:

1 (1) *The advisability of providing traumatic in-*
 2 *jury protection coverage under Servicemembers’*
 3 *Group Life Insurance under section 1980A of title 38,*
 4 *United States Code, for Post Traumatic Stress Dis-*
 5 *order incurred by a member of the Armed Forces as*
 6 *a direct result of military service in a combat zone*
 7 *that renders the member unable to carry out the daily*
 8 *activities of living after the member is discharged or*
 9 *released from military service.*

10 (2) *The unique circumstances of military service,*
 11 *and the unique experiences of members of the Armed*
 12 *Forces who are deployed to a combat zone.*

13 (3) *Any financial strain incurred by family*
 14 *members of members of the Armed Forces who suffer*
 15 *severe and acute from Post Traumatic Stress Dis-*
 16 *order.*

17 (4) *The recovery time, and any particular dif-*
 18 *ficulty of the recovery process, for recovery from severe*
 19 *and acute Post Traumatic Stress Disorder.*

20 (5) *Such other matters as the Secretary considers*
 21 *appropriate.*

22 (c) *APPROPRIATE COMMITTEES OF CONGRESS DE-*
 23 *FINED.—In this section, the term “appropriate committees*
 24 *of Congress” means—*

1 (1) *the Committee on Armed Services and the*
 2 *Committee on Veterans' Affairs of the Senate; and*

3 (2) *the Committee on Armed Services and the*
 4 *Committee on Veterans' Affairs of the House of Rep-*
 5 *resentatives.*

6 **SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSUR-**
 7 **ABLE DEPENDENTS UNDER**
 8 **SERVICEMEMBERS' GROUP LIFE INSURANCE.**

9 (a) *TREATMENT.*—Section 1965(10) is amended by
 10 *adding at the end the following new subparagraph:*

11 “(C) *The member's stillborn child.*”.

12 (b) *CONFORMING AMENDMENT.*—Section 101(4)(A) is
 13 *amended by striking “section 1965(10)(B)” in the matter*
 14 *preceding clause (i) and inserting “subparagraph (B) or*
 15 *(C) of section 1965(10)”.*

16 **SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS'**
 17 **GROUP LIFE INSURANCE COVERAGE.**

18 (a) *EXPANSION OF SERVICEMEMBERS' GROUP LIFE*
 19 *INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDI-*
 20 *VIDUAL READY RESERVE.*—

21 (1) *IN GENERAL.*—Section 1967(a)(1)(C) is
 22 *amended by striking “section 1965(5)(B) of this title”*
 23 *and inserting “subparagraph (B) or (C) of section*
 24 *1965(5) of this title”.*

25 (2) *CONFORMING AMENDMENTS.*—

1 (A) *Section 1967(a)(5)(C) is amended by*
 2 *striking “section 1965(5)(B) of this title” and*
 3 *inserting “subparagraph (B) or (C) of section*
 4 *1965(5) of this title”; and*

5 (B) *Section 1969(g)(1)(B) is amended by*
 6 *striking “section 1965(5)(B) of this title” and*
 7 *inserting “subparagraph (B) or (C) of section*
 8 *1965(5) of this title”.*

9 (b) *REDUCTION IN PERIOD OF DEPENDENTS’ COV-*
 10 *ERAGE AFTER MEMBER SEPARATES.—Section*
 11 *1968(a)(5)(B)(ii) is amended by striking “120 days after”.*

12 (c) *AUTHORITY TO SET PREMIUMS FOR READY RE-*
 13 *SERVISTS’ SPOUSES.—Section 1969(g)(1)(B) is amended by*
 14 *striking “(which shall be the same for all such members)”.*

15 (d) *FORFEITURE OF VETERANS’ GROUP LIFE INSUR-*
 16 *ANCE.—Section 1973 is amended by striking “under this*
 17 *subchapter” and inserting “and Veterans’ Group Life In-*
 18 *surance under this subchapter”.*

19 (e) *EFFECTIVE AND APPLICABILITY DATES.—*

20 (1) *The amendments made by subsection (a)*
 21 *shall take effect on the date of the enactment of this*
 22 *Act.*

23 (2) *The amendment made by subsection (b) shall*
 24 *apply with respect to Servicemembers’ Group Life In-*
 25 *surance coverage for an insurable dependent of a*

1 *member, as defined in section 1965(10) of title 38,*
 2 *United States Code (as amended by section 502 of*
 3 *this Act), that begins on or after the date of the enact-*
 4 *ment of this Act.*

5 *(3) The amendment made by subsection (c) shall*
 6 *take effect as if enacted on June 5, 2001, immediately*
 7 *after the enactment of the Veterans' Survivor Benefits*
 8 *Improvements Act of 2001 (Public Law 107–14; 115*
 9 *Stat. 25).*

10 *(4) The amendment made by subsection (d) shall*
 11 *apply with respect to any act of mutiny, treason, spy-*
 12 *ing, or desertion committed on or after the date of the*
 13 *enactment of this Act for which a person is found*
 14 *guilty, or with respect to refusal because of conscien-*
 15 *tious objections to perform service in, or to wear the*
 16 *uniform of, the Armed Forces on or after the date of*
 17 *the enactment of this Act.*

18 ***TITLE VI—OTHER MATTERS***

19 ***SEC. 601. AUTHORITY FOR SUSPENSION OR TERMINATION*** 20 ***OF CLAIMS OF THE UNITED STATES AGAINST*** 21 ***INDIVIDUALS WHO DIED WHILE SERVING ON*** 22 ***ACTIVE DUTY IN THE ARMED FORCES.***

23 *(a) AUTHORITY.—Section 3711(f) of title 31, United*
 24 *States Code, is amended—*

1 (1) *by redesignating paragraph (3) as para-*
 2 *graph (4); and*

3 (2) *by inserting after paragraph (2) the fol-*
 4 *lowing new paragraph (3):*

5 “(3) *The Secretary of Veterans Affairs may suspend*
 6 *or terminate an action by the Secretary under subsection*
 7 *(a) to collect a claim against the estate of a person who*
 8 *died while serving on active duty as a member of the Army,*
 9 *Navy, Air Force, Marine Corps, or Coast Guard during a*
 10 *period when the Coast Guard is operating as a service in*
 11 *the Navy if the Secretary determines that, under the cir-*
 12 *cumstances applicable with respect to the deceased person,*
 13 *it is appropriate to do so.”.*

14 (b) *EQUITABLE REFUND OF AMOUNTS COLLECTED.—*
 15 *The Secretary of Veterans Affairs may refund to the estate*
 16 *of such person any amount collected by the Secretary*
 17 *(whether before, on, or after the date of the enactment of*
 18 *this Act) from a person who died while serving on active*
 19 *duty as a member of the Armed Forces if the Secretary de-*
 20 *termines that, under the circumstances applicable with re-*
 21 *spect to the deceased person, it is appropriate to do so.*

1 **SEC. 602. MEMORIAL HEADSTONES AND MARKERS FOR DE-**
 2 **CEASED REMARRIED SURVIVING SPOUSES OF**
 3 **VETERANS.**

4 (a) *IN GENERAL.*—Section 2306(b)(4)(B) is amended
 5 by striking “an unremarried surviving spouse whose subse-
 6 quent remarriage was terminated by death or divorce” and
 7 inserting “a surviving spouse who had a subsequent remar-
 8 riage”.

9 (b) *EFFECTIVE DATE.*—The amendment made by this
 10 section shall apply to deaths occurring on or after the date
 11 of the enactment of this Act.

12 **SEC. 603. THREE-YEAR EXTENSION OF AUTHORITY TO**
 13 **CARRY OUT INCOME VERIFICATION.**

14 Section 5317(g) is amended by striking “September
 15 30, 2008” and inserting “September 30, 2011”.

16 **SEC. 604. THREE-YEAR EXTENSION OF TEMPORARY AU-**
 17 **THORITY FOR THE PERFORMANCE OF MED-**
 18 **ICAL DISABILITY EXAMINATIONS BY CON-**
 19 **TRACT PHYSICIANS.**

20 Section 704(c) of the Veterans Benefits Act of 2003
 21 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101 note)
 22 is amended by striking “December 31, 2009” and inserting
 23 “December 31, 2012”.

Amend the title so as to read: “A Bill to amend title
 38, United States Code, to improve and enhance com-

pensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.”.

Calendar No. 947

110TH CONGRESS
2D Session

S. 3023

[Report No. 110-449]

A BILL

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to prescribe regulations relating to the notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims.

SEPTEMBER 9, 2008

Reported with an amendment and an amendment to the title