For the purposes of this chapter—
(1) The term “veteran” includes a person who died in the active military, naval, or air service.
(2) The term “period of war” includes, in the case of any veteran—
(A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and
(B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.
(3) The term “chronic disease” includes—
Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calcull of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen’s disease
Hodgkin’s disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget’s disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud’s disease
Sarcoidosis
Scleroderma
Scleroderma, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger’s disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)
and such other chronic diseases as the Secretary may add to this list.
(4) The term “tropical disease” includes—
Amebiasis
Blackwater fever
Cholera
Dracontiasis
Dysentery
Filariasis
Hansen’s disease
Leishmaniasis, including kala-azar
Loiasis
Malaria
Onchocerciasis
Oroya fever
Pinta
Plague
Schistosomiasis
Yaws
Yellow fever
and such other tropical diseases as the Secretary may add to this list.

For the year 1991—Pub. L. 102–83, §5(a), renumbered section 301 of this title as this section.

For the year 1995—

(2) Pub. L. 104–201, §175(a), inserted ‘‘Lupus erythematosus, systemic’’ after ‘‘Hodgkin’s disease’’.

(3) Pub. L. 104–201, §175(b), substituted ‘‘such veteran’’ for ‘‘him’’ in subpars. (A) and (B).

For the year 1996—

(2) Pub. L. 104–108, §302, substituted ‘‘Hansen’s disease’’ for ‘‘Leprosy’’.

For the year 1997—

(1) Pub. L. 105–362, §175(a), inserted ‘‘Hansen’s disease’’ after ‘‘Filariasis’’ and struck out ‘‘Leprosy’’ before ‘‘Loiasis’’.

Effective Date of 1997 Amendment

Effective Date of Future Increases
Pub. L. 98–223, title I, §108, Mar. 2, 1984, 98 Stat. 40, provided that: ‘‘It is the sense of the Congress that any increase provided by law to take effect after fiscal year 1984 in the rates of disability compensation and dependency and indemnity compensation payable under chapters 11 and 13, respectively, of title 38, United States Code, shall take effect on December 1 of the fiscal year involved and that the budgets for any such fiscal year include amounts to achieve such purpose. ’’


Veterans’ Disability Benefits Commission

‘‘SEC. 1501. ESTABLISHMENT OF COMMISSION.

‘‘(a) Establishment of Commission.—There is hereby established a commission to be known as the Veterans’ Disability Benefits Commission (hereinafter in this title referred to as the ‘‘commission’’).

‘‘(b) Membership.—(1) The commission shall be composed of 13 members, appointed as follows: ‘‘(A) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall
be a veteran who was awarded a decoration specified in paragraph (2).

"(B) Two members appointed by the minority leader of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

"(C) Two members appointed by the majority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

"(D) Two members appointed by the minority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

"(E) Five members appointed by the President, at least three of whom shall be veterans who were awarded a decoration specified in paragraph (2).

"(2) A decoration specified in this paragraph is any of the following:

"(A) The Medal of Honor.

"(B) The Distinguished Service Cross, the Navy Cross, or the Air Force Cross.

"(C) The Silver Star.

"(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) The appointment of members of the commission under this subsection shall be made not later than 60 days after the date of the enactment of this Act [Nov. 24, 2003].

"(c) Period of Appointment.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers.

"(d) Initial Meeting.—The commission shall hold its first meeting not later than 30 days after the date on which a majority of the members of the commission have been appointed.

"(e) Meetings.—The commission shall meet at the call of the chairman.

"(f) Quorum.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

"(g) Chairman.—The President shall designate a member of the commission to be chairman of the commission.

"SEC. 1502. DUTIES OF THE COMMISSION.

"(a) Study.—The commission shall carry out a study of the laws and regulations which determine eligibility for disability and death benefits, and other aspects of contemporary disability compensation policies, and the private sector.

"(b) Appointments and hearings.—Upon request of the chairman of the commission, the head of the Federal Government, the head of any department or agency such information as the commission may secure directly from any Federal department or agency such information as the commission considers advisable to carry out the purposes of this title.

"(c) Meetings.—The commission may hold such hearings, sit and act at such times during which the member is engaged in the performance of the duties of the commission, and without regard to the civil service laws and regulations.

"(d) Travel expenses.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

"(e) Compensation of the executive director and other personnel may not exceed the rate of pay for the position of executive director and other personnel specified in paragraph (1) of section 5316 of such title.

"SEC. 1503. REPORT.

"(a) Requirement.—Not later than October 1, 2007, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

"(1) The findings and conclusions of the commission concerning the following:

"(A) The need for improved medical treatment.

"(B) The need for increased research into the causes and prevention of disabilities.

"(C) The need for increased education and training for veterans.

"(D) The need for increased support for caregivers of veterans.

"(2) The appropriate standard or standards for determining whether a disability or death of a veteran should be compensated.

"(b) The recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disabilities and death attributable to military service.

"(c) Other information and recommendations with respect to such benefits as the commission considers appropriate.

"SEC. 1504. POWERS OF THE COMMISSION.

"(a) Hearings.—The commission may hold such hearings, sit and act at such times during which the member is engaged in the performance of the duties of the commission, and without regard to the civil service laws and regulations.

"(b) Information from Federal agencies.—In addition to the information referred to in section 1502(c), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the purposes of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

"(c) Postal services.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(d) Gifts.—The commission may accept, use, and dispose of gifts or donations of services or property.

"SEC. 1505. PERSONNEL MATTERS.

"(a) Compensation of members.—Each member of the commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day on which the member is engaged in the performance of the duties of the commission.

"(b) Travel expenses.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

"(c) Staff.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

"(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 59 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(d) Detail of government employees.—Upon request of the chairman of the commission, the head of
any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the commission to assist it in carrying out its duties.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 1506. TERMINATION OF COMMISSION.

The commission shall terminate 60 days after the date on which the commission submits its report under section 1503.

SEC. 1507. FUNDING.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall, upon the request of the chairman of the commission, make available to the commission such amounts as the commission may require to carry out its duties under this title.

(b) AVAILABILITY.—Any sums made available to the commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the commission.

TREATMENT OF CERTAIN INCOME OF ALASKA NATION OWNERS FOR PURPOSES OF NEED-BASED BENEFITS

Pub. L. 103–446, title V, § 506, Nov. 2, 1994, 108 Stat. 4664, provided that: "Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1629(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any program administered by the Secretary of Veterans Affairs."

COST-OF-LIVING INCREASES IN COMPENSATION RATES

Pub. L. 103–446, title I, § 111(b), Nov. 2, 1994, 108 Stat. 4654, provided that: "The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.


(a) POLICY.—The fiscal year 1994 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title, except as provided in subsection (b) of this section, will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

(b) LIMITATION ON FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.—(1) During fiscal year 1994, the amount of any increase in any of the rates of dependency and indemnity compensation in effect under section 131(a)(3) of title 38, United States Code, will not exceed 50 percent of the amount that such increase would have been for the fiscal year 1994.

"(2) For purposes of paragraph (1), the new law increase is the amount by which the rate of dependency and indemnity compensation provided for recipients under section 131(a)(3) of such title is increased for fiscal year 1994."


(a) POLICY REGARDING FISCAL YEAR 1991.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 5.4 percent increase, with all increased monthly rates rounded down to the next lower dollar. The effective date for such adjustments will not be earlier than January 1, 1991.

(b) INCREASE PAYABLE AS OF JANUARY 1992.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level as of January 1, 1991, pursuant to the adjustments described in subsection (a)."

BENEFITS AND SERVICES FOR FORMER PRISONERS OF WAR; IMPLEMENTATION OF PROGRAMS; RECORDS FOR DISPOSITION OF CLAIMS; DEFINITION


(a) NOT LATER THAN NINETY DAYS AFTER THE DATE OF THE ENACTMENT OF THIS ACT [Aug. 14, 1981] AND AT APPROPRIATE TIMES THEREAFTER, THE ADMINISTRATOR SHALL, TO THE MAXIMUM EXTENT FEASIBLE AND IN ORDER TO CARRY OUT THE REQUIREMENTS OF THE VETERANS OUTREACH SERVICES PROGRAM UNDER SUBCHAPTER IV OF [FORMER] CHAPTER 3 OF TITLE 38, UNITED STATES CODE, SEEK OUT FORMER PRISONERS OF WAR AND PROVIDE THEM WITH INFORMATION REGARDING APPLICABLE CHANGES IN LAW, REGULATIONS, POLICIES, GUIDELINES, OR OTHER DIRECTIVES AFFECTING THE BENEFITS AND SERVICES TO WHICH FORMER PRISONERS OF WAR ARE ENTITLED UNDER SUCH TITLE BY VIRTUE OF THE AMENDMENTS MADE BY THIS ACT [SEE TABLES FOR CLASSIFICATION].

(b)(1) THE ADMINISTRATOR SHALL, FOR NOT LESS THAN THE THREE-YEAR PERIOD BEGINNING NINETY DAYS AFTER THE DATE OF THE ENACTMENT OF THIS ACT [Aug. 14, 1981], MAINTAIN A CENTRALIZED RECORD SHOWING ALL CLAIMS FOR BENEFITS UNDER CHAPTER 11 OF SUCH TITLE THAT ARE SUBMITTED BY FORMER PRISONERS OF WAR AND THE DISPOSITION OF SUCH CLAIMS.

(2) NOT LATER THAN NINETY DAYS AFTER THE END OF THE THREE-YEAR PERIOD DESCRIBED IN PARAGRAPH (1), THE ADMINISTRATOR SHALL, AFTER CONSULTING WITH AND RECEIVING THE VIEWS OF THE ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR REQUIRED TO BE ESTABLISHED PURSUANT TO SECTION 221 [SEE 541] OF SUCH TITLE, SUBMIT A REPORT ON THE RESULTS OF THE DISPOSITION OF CLAIMS DESCRIBED IN SUCH PARAGRAPH, TOGETHER WITH ANY COMMENTS OR RECOMMENDATIONS THAT THE ADMINISTRATOR MAY HAVE, TO THE APPROPRIATE COMMITTEES OF CONGRESS. THE ADMINISTRATOR MAY ALSO SUBMIT TO SUCH COMMITTEES INTERIM REPORTS ON SUCH RESULTS.

(c) FOR THE PURPOSES OF THIS SECTION, THE TERM "FORMER PRisoner OF war" HAS THE MEANING GIVEN SUCH TERM IN PARAGRAPH (32) OF SECTION 101 OF TITLE 38, UNITED STATES CODE (AS ADDED BY SECTION 3(a) OF THIS ACT)."

STUDY ON DISABILITY COMPENSATION AND HEALTH-CARE NEEDS OF FORMER PRISONERS OF WAR; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 95–479, title III, § 3005, Oct. 18, 1978, 92 Stat. 1965, directed Administrator of Veterans' Affairs, in consultation with Secretary of Defense, to carry out a comprehensive study of disability compensation awarded to, and health care needs of veterans who are former prisoners of war and to report on the results of such study to Congress and President not later than Feb. 1, 1980.
§ 1102. Special provisions relating to surviving spouses

(a) No compensation shall be paid to the surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(b) Subsection (a) shall not be applicable to any surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Secretary in effect on December 31, 1957.

(Added Pub. L. 86–491, June 8, 1960, 74 Stat. 161; Pub. L. 90–77, title II, §207, May 31, 1967, 88 Stat. 183, directed Administrator of Veterans’ Affairs to make a detailed study of claims for dependency and indemnity compensation relating to veterans, as defined in section 101(2) of this title, who at time of death within six months prior to May 31, 1974, were receiving disability compensation from Veterans’ Administration based upon a rating total and permanent in nature, and submit a report together with such comments and recommendations as Administrator deemed appropriate to Speaker of the House and President of the Senate not more than thirty days after Jan. 14, 1975.

§ 1103. Special provisions relating to claims based upon effects of tobacco products

(a) Notwithstanding any other provision of law, a veteran’s disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title, on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran’s service.

(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.


PRIOR PROVISIONS

A prior section 1103 was renumbered section 1104 of this title.

EFFECTIVE DATE


(Added Pub. L. 105–178, title VIII, §8202(b), as amended by Pub. L. 105–206, title IX, §9014(a), July 22, 1998, 112 Stat. 865, provided that: “Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act [June 9, 1998].”)

§ 1104. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term “social security increase” means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).