

109TH CONGRESS
1ST SESSION

H. R. 1618

To amend title 38, United States Code, to establish a group disability insurance benefit for members of the Armed Forces who incur certain severe disabilities.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2005

Mr. RENZI (for himself, Mr. SMITH of New Jersey, Mr. HAYWORTH, and Mr. JONES of North Carolina) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to establish a group disability insurance benefit for members of the Armed Forces who incur certain severe disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wounded Warrior
5 Servicemembers Group Disability Insurance Act of 2005”.

1 **SEC. 2. ESTABLISHMENT OF A PROGRAM OF GROUP DIS-**
2 **ABILITY INSURANCE FOR SEVERELY IN-**
3 **JURED MEMBERS OF THE ARMED FORCES.**

4 (a) IN GENERAL.—Chapter 19 of title 38, United
5 States Code, is amended by adding at the end the fol-
6 lowing new subchapter:

7 “SUBCHAPTER V—SERVICEMEMBERS’ GROUP
8 DISABILITY INSURANCE

9 “§ 1991. Definitions; program name

10 “(a) DEFINITIONS.—Except as otherwise expressly
11 provided, the definitions set forth in section 1965 of this
12 title are applicable to this subchapter.

13 “(b) PROGRAM NAME.—The program of insurance
14 under this subchapter is known as ‘Servicemembers’
15 Group Disability Insurance’.

16 “§ 1992. Program authority; eligible insurance compa-
17 nies

18 “(a) PROGRAM AUTHORITY.—The Secretary is au-
19 thorized, without regard to section 3709 of the Revised
20 Statutes (41 U.S.C. 5), to purchase from one or more in-
21 surance companies a policy or policies of group disability
22 insurance to provide the benefits specified in this sub-
23 chapter.

24 “(b) ELIGIBLE INSURANCE COMPANIES.—The Sec-
25 retary may only purchase a policy under this subchapter
26 from an insurance company that—

1 “(1) is licensed to issue disability insurance in
2 each of the 50 States of the United States and in
3 the District of Columbia; and

4 “(2) as of the most recent December 31 for
5 which information is available to the Secretary, has
6 in effect at least 1 percent of the total amount of
7 group disability insurance which all insurance com-
8 panies have in effect in the United States.

9 “(c) INSURANCE COMPANY ADMINISTRATIVE OF-
10 FICE.—Any insurance company issuing a policy under this
11 subchapter shall establish an administrative office at a
12 place and under a name designated by the Secretary.

13 “(d) REINSURANCE.—The Secretary shall arrange
14 with any insurance company issuing a policy under this
15 subchapter to reinsure, under conditions approved by the
16 Secretary, portions of the total amount of insurance under
17 such policy with such other insurance companies (which
18 meet qualifying criteria set forth by the Secretary) as may
19 elect to participate in such reinsurance.

20 “(e) DISCONTINUATION OF POLICIES.—The Sec-
21 retary may at any time discontinue any policy that the
22 Secretary has purchased from any insurance company
23 under this subchapter.

1 **“§ 1993. Persons insured; amount**

2 “(a) PERSONS INSURED.—(1) Subject to an election
3 under paragraph (2), any policy of insurance purchased
4 by the Secretary under section 1992 of this title shall
5 automatically insure any person insured under section
6 1966 of this title.

7 “(2) A person insured under section 1966 of this title
8 may elect in writing not to be insured under this sub-
9 chapter. Any such election shall be in such form as the
10 Secretary may prescribe.

11 “(b) AMOUNT OF INSURANCE.—The amount for
12 which a person is insured under this subchapter is
13 \$50,000.

14 “(c) EFFECTIVE DATE OF COVERAGE.—The insur-
15 ance under this subchapter shall be effective with respect
16 to a member on the latest of the following dates:

17 “(1) The first day of active duty or active duty
18 for training.

19 “(2) The beginning of a period of inactive duty
20 training scheduled in advance by competent author-
21 ity.

22 “(3) In the case of a member of the Ready Re-
23 serve, the first day on which the member meets the
24 qualifications set forth in section 1965(5)(B) of this
25 title.

1 “(4) The date certified by the Secretary to the
2 Secretary concerned as the date on which
3 Servicemembers’ Group Disability Insurance under
4 this subchapter for the class or group concerned
5 takes effect.

6 “(d) MEMBERS INJURED WHILE PROCEEDED TO OR
7 FROM DUTY.—(1) Any member (other than one who has
8 elected not to be insured under this subchapter for the
9 period or periods of duty involved)—

10 “(A) who, when authorized or required by com-
11 petent authority, assumes an obligation to perform
12 (for less than 31 days) active duty, or active duty
13 for training, or inactive duty training scheduled in
14 advance by competent authority; and

15 “(B) who is rendered uninsurable at standard
16 premium rates according to the good health stand-
17 ards approved by the Secretary, from a disability, or
18 aggravation of a preexisting disability, incurred by
19 such member while proceeding directly to or return-
20 ing directly from such active duty, active duty for
21 training, or inactive duty training as the case may
22 be;

23 shall be deemed to have been on active duty, active duty
24 for training, or inactive duty training, as the case may

1 be, and to have been insured under this subchapter at the
2 time such disability was incurred or aggravated.

3 “(2) In determining whether or not such member was
4 so authorized or required to perform such duty, and
5 whether or not such member was rendered uninsurable
6 from a disability so incurred or aggravated, there shall be
7 taken into account—

8 “(A) the call or order to duty, the orders and
9 authorizations of competent authority, the hour on
10 which the member began to so proceed or to return,
11 and the hour on which the member was scheduled to
12 arrive for, or on which such member ceased to per-
13 form, such duty;

14 “(B) the method of travel employed;

15 “(C) the member’s itinerary;

16 “(D) the manner in which the travel was per-
17 formed; and

18 “(E) the immediate cause of disability.

19 “(3) Whenever any claim is filed alleging that a per-
20 son insured under this subchapter is entitled to benefits
21 by reason of this subsection, the burden of proof shall be
22 on the insured person.

23 “(e) SUBSEQUENT COVERAGE AFTER ELECTION NOT
24 TO BE COVERED.—If a person eligible for insurance under
25 this subchapter is not so insured by reason of an election

1 made by a member under subparagraph (B) of subsection
2 (a)(3), the person may thereafter be insured under this
3 subchapter upon—

4 “(1) written application by the member;

5 “(2) proof of good health of the member’ and

6 “(3) compliance with such other terms and con-
7 ditions as may be prescribed by the Secretary.

8 “(f) FURNISHING OF INFORMATION.—Whenever a
9 member has the opportunity to make an election under
10 subsection (a) not to be insured under this subchapter,
11 and at such other times periodically thereafter as the Sec-
12 retary concerned considers appropriate, the Secretary con-
13 cerned shall furnish to the member general information
14 concerning disability insurance. Such information shall in-
15 clude—

16 “(1) the purpose and role of disability insur-
17 ance in financial planning; and

18 “(2) the availability of commercial disability in-
19 surance.

20 “(g) CHANGES IN BENEFITS.—The effective date and
21 time for any change in benefits under the Servicemembers’
22 Group Disability Insurance Program shall be based on the
23 date and time according to the time zone immediately west
24 of the International Date Line.

1 **“§ 1994. Qualifying disabilities**

2 “Any of the following is a qualifying disability for the
3 purposes of this subchapter:

4 “(1) Complete and permanent loss of movement
5 of an extremity.

6 “(2) Burns of a severity equaling third degree
7 or higher and affecting an area or areas of the body
8 exceeding one square foot.

9 “(3) The loss of sight of one or both eyes en-
10 tirely, irrecoverably, and uncorrectably.

11 “(4) The permanent loss of one hand, by sever-
12 ance at or above the wrist joint.

13 “(5) The permanent loss of one foot, by sever-
14 ance at or above the ankle joint.

15 “(6) The loss of speech or hearing entirely, irre-
16 coverably, and uncorrectably.

17 “(7) Any other disability specified by the Sec-
18 retary by regulation for the purposes of this section.

19 **“§ 1995. Duration and termination of coverage**

20 “Each policy purchased under this subchapter shall
21 contain a provision, in terms approved by the Secretary,
22 to the effect that any insurance thereunder on any mem-
23 ber of the uniformed services, unless discontinued upon
24 the written request of the insured (or discontinued pursu-
25 ant to section 1996(a)(2)(B) of this title), shall continue
26 in effect while the member is on active duty, active duty

1 for training, or inactive duty training scheduled in advance
2 by competent authority during the period thereof, or while
3 the member meets the qualifications set forth in subpara-
4 graph (B) or (C) of section 1965(5) of this title and such
5 insurance shall cease as follows:

6 “(1) With respect to a member on active duty
7 or active duty for training under a call or order to
8 duty that does not specify a period of less than 31
9 days, insurance under this subchapter shall cease—

10 “(A) at midnight, local time, on the date
11 of separation or release from active duty or ac-
12 tive duty for training; or

13 “(B) at the end of the thirty-first day of
14 a continuous period of—

15 “(i) absence without leave;

16 “(ii) confinement by civil authorities
17 under a sentence adjudged by a civilian
18 court; or

19 “(iii) confinement by military authori-
20 ties under a court-martial sentence involv-
21 ing total forfeiture of pay and allowances.

22 Any insurance so terminated as the result of an ab-
23 sence or confinement referred to in subparagraph
24 (B), together with any beneficiary designation in ef-
25 fect for such insurance at such termination thereof,

1 shall be automatically revived as of the date the
2 member is restored to active duty with pay or to ac-
3 tive duty for training with pay.

4 “(2) With respect to a member on active duty
5 or active duty for training under a call or order to
6 duty that specifies a period of less than 31 days, in-
7 surance under this subchapter shall cease at mid-
8 night, local time, on the last day of such duty.

9 “(3) With respect to a member on inactive duty
10 training scheduled in advance by competent author-
11 ity, insurance under this subchapter shall cease at
12 the end of such scheduled training period.

13 “(4) With respect to a member of the Ready
14 Reserve of a uniformed service who meets the quali-
15 fications set forth in subparagraph (B) or (C) of
16 section 1965(5) of this title, insurance under this
17 subchapter shall at midnight, local time, on the date
18 of separation or release from such assignment.

19 **“§ 1996. Premiums: deductions and payments; invest-**
20 **ment; expenses**

21 “(a) DEDUCTIONS AND PAYMENTS.—The provisions
22 of subsection (a) of section 1969 of this title shall apply
23 to Servicemembers’ Group Disability Insurance in the
24 same manner as those provisions apply to

1 Servicemembers' Group Life Insurance under that sub-
2 section.

3 “(b) APPROPRIATIONS FOR PREMIUMS FOR EXTRA
4 HAZARD OF DUTY IN THE UNIFORMED SERVICES.—The
5 provisions of subsection (b) of section 1969 of this title
6 shall apply to Servicemembers' Group Disability Insurance
7 in the same manner as those provisions apply to
8 Servicemembers' Group Life Insurance under that sub-
9 section.

10 “(c) ADVANCE ON APPROPRIATIONS.—The provisions
11 of subsection (c) of section 1969 of this title shall apply
12 to Servicemembers' Group Disability Insurance in the
13 same manner as those provisions apply to
14 Servicemembers' Group Life Insurance under that sub-
15 section.

16 “(d) DEPOSITS TO REVOLVING FUND.—(1) The
17 sums withheld from the basic or other pay of members,
18 or collected from them by the Secretary concerned, under
19 subsection (a) and the sums contributed from appropria-
20 tions under subsection (b) together with the income de-
21 rived from any dividends or premium rate adjustments re-
22 ceived from insurers shall be deposited to the credit of a
23 revolving fund established in the Treasury of the United
24 States. All premium payments and extra hazard costs on
25 Servicemembers' Group Disability Insurance and the ad-

1 ministrative cost to the Department of insurance issued
2 under this subchapter shall be paid from the revolving
3 fund.

4 “(2) The provisions of paragraphs (2) and (3) of sub-
5 section (d) of section 1969 of this title shall apply to
6 Servicemembers’ Group Disability Insurance, and to the
7 fund established under paragraph (1) of this subsection,
8 in the same manner as those provisions apply to
9 Servicemembers’ Group Life Insurance and the fund es-
10 tablished under paragraph (1) of that subsection (d).

11 “(e) SECRETARY OF DEFENSE REGULATIONS.—The
12 Secretary of Defense shall prescribe regulations for the
13 administration of the functions of the Secretaries of the
14 military departments under this section. Such regulations
15 shall be subject to the second sentence of subsection (e)
16 of section 1969 of this title.

17 “(f) STATE TAXES.—The provisions of subsection (f)
18 of section 1969 of this title shall apply to Servicemembers’
19 Group Disability Insurance in the same manner as those
20 provisions apply to Servicemembers’ Group Life Insurance
21 under that subsection.

22 **“§ 1997. Payment of insurance**

23 “(a) PAYMENT.—An amount of insurance under this
24 subchapter in force on a member or former member on
25 the date on which that person incurs a qualifying disability

1 shall be paid, upon the establishment of a valid claim
2 therefor, to the member or former member.

3 “(b) LUMP SUM PAYMENT.—A payment under sub-
4 section (a) shall be a lump sum payment in settlement
5 of insurance under this subchapter.

6 “(c) STATUS OF PAYMENT.—The provisions of sub-
7 section (c) of section 1970 of this title shall apply to a
8 payment due or to become due under Servicemembers’
9 Group Disability Insurance in the same manner as those
10 provisions apply to a payment due or to become due under
11 Servicemembers’ Group Life Insurance under that sub-
12 section.

13 “(d) PROHIBITION ON PAYMENT THAT WOULD ES-
14 CHEAT TO STATE.—The provisions of subsection (h) of
15 section 1970 of this title shall apply to insurance payable
16 under Servicemembers’ Group Disability Insurance in the
17 same manner as those provisions apply to insurance pay-
18 able under Servicemembers’ Group Life Insurance under
19 that subsection.

20 **“§ 1998. Premiums; readjustment of rates**

21 “(a) BASIC PREMIUM RATE FOR FIRST POLICY
22 YEAR.—Each policy purchased under section 1992 of this
23 title shall include for the first policy year a basic premium
24 rates which the Secretary shall have determined on a basis
25 consistent with the lowest schedule of basic premium rates

1 generally charged for new group disability insurance poli-
2 cies issued to large employers. Each policy so purchased
3 shall also include provisions whereby the basic rates of
4 premium determined for the first policy year shall be con-
5 tinued for subsequent policy years, except that they may
6 be readjusted for any subsequent year, based on the expe-
7 rience under the policy, such readjustment to be made by
8 the insurance company or companies issuing the policy on
9 a basis determined by the Secretary in advance of such
10 year to be consistent with the general practice of disability
11 insurance companies under policies of group disability in-
12 surance issued to large employers.

13 “(b) TOTAL PREMIUM.—The total premiums for
14 Servicemembers’ Group Disability Insurance shall be the
15 sum of—

16 “(1) the amounts computed according to sub-
17 section (a); and

18 “(2) the estimated cost traceable to the extra
19 hazard of active duty in the uniformed services as
20 determined by the Secretary, with such estimated
21 costs to be retroactively readjusted annually in ac-
22 cordance with section 1996(b) of this title.

23 “(c) MAXIMUM EXPENSE AND RISK CHARGES.—
24 Each policy purchased under section 1992 of this title
25 shall contain a provision stipulating the maximum expense

1 and risk charges for the first policy year, which charges
2 shall have been determined by the Secretary on a basis
3 consistent with the general level of such charges made by
4 disability insurance companies under policies of group dis-
5 ability insurance issued to large employers. Such max-
6 imum charges shall be continued from year to year, except
7 that the Secretary may redetermine such maximum
8 charges for any year either by agreement with the insur-
9 ance company or companies issuing the policy or upon
10 written notice given by the Secretary to such companies
11 at least one year in advance of the beginning of the year
12 for which such redetermined maximum charges will be ef-
13 fective.

14 “(d) ANNUAL ACCOUNTING.—Each policy under sec-
15 tion 1992 of this title shall provide for an accounting to
16 the Secretary not later than 90 days after the end of each
17 policy year. Each such accounting shall set forth, in a
18 form approved by the Secretary, the following:

19 “(1) The amounts of premiums actually accrued
20 under the policy from its date of issue to the end of
21 such policy year.

22 “(2) The total of all claim charges incurred for
23 that period.

24 “(3) The amounts of the insurers’ expense and
25 risk charge for that period.

1 “(e) SPECIAL CONTINGENCY RESERVE.—Any excess
2 of the total of paragraph (1) of subsection (d) over the
3 sum of paragraphs (2) and (3) of that subsection shall
4 be held by the insurance company issuing the policy as
5 a special contingency reserve to be used by such insurance
6 company for charges under such policy only. Any such re-
7 serve shall bear interest at a rate to be determined in ad-
8 vance of each policy year by the insurance company
9 issuing the policy, which rate shall be approved by the Sec-
10 retary as being consistent with the rates generally used
11 by such company for similar funds held under other group
12 disability insurance policies.

13 “(f) CREDITS TO REVOLVING FUND.—If and when
14 the Secretary determines that a special contingency re-
15 serve established under subsection (e) has attained an
16 amount estimated by the Secretary to make satisfactory
17 provision for adverse fluctuations in future charges under
18 the policy, any further excess shall be deposited to the
19 credit of the revolving fund established under section
20 1996(d)(1) of this title. If and when such policy is discon-
21 tinued, and if after all charges have been made, there is
22 a positive balance remaining in such special contingency
23 reserve, such balance shall be deposited to the credit of
24 the revolving fund, subject to the right of the insurance
25 company or companies issuing the policy to make such de-

1 posit in equal monthly installments over a period of not
2 more than two years.

3 **“§ 1999. Other provisions**

4 “(a) BENEFIT CERTIFICATES.—The provisions of
5 section 1972 of this title shall apply to members insured
6 under Servicemembers’ Group Disability Insurance in the
7 same manner as those provisions apply to a member in-
8 sured under Servicemembers’ Group Life Insurance under
9 that section.

10 “(b) FORFEITURE.—The provisions of the first sen-
11 tence of section 1973 of this title shall apply to
12 Servicemembers’ Group Disability Insurance in the same
13 manner as those provisions apply to Servicemembers’
14 Group Life Insurance under that section.

15 “(c) JURISDICTION OF DISTRICT COURTS.—The pro-
16 visions of section 1975 of this title shall apply to
17 Servicemembers’ Group Disability Insurance in the same
18 manner as those provisions apply to Servicemembers’
19 Group Life Insurance under that section.

20 “(d) REINSTATEMENT.—The provisions of section
21 1978 of this title shall apply to Servicemembers’ Group
22 Disability Insurance in the same manner as those provi-
23 sions apply to Servicemembers’ Group Life Insurance
24 under that section.

1 “(e) INCONTESTABILITY.—Subject to subsection (b),
 2 insurance coverage granted under this subchapter shall be
 3 incontestable from the date of issue, reinstatement, or con-
 4 version except for fraud or nonpayment of premium.”.

5 (b) EFFECTIVE DATE.—The insurance provided for
 6 in subchapter V of chapter 19 of title 38, United States
 7 Code, as added by subsection (a), and the deductions and
 8 contributions for that purpose under that subchapter,
 9 shall take effect on the date designated by the Secretary
 10 of Veterans Affairs, which date shall not be later than one
 11 year after the date of the enactment of this Act. The Sec-
 12 retary shall publish a notice of such date in the Federal
 13 Register and shall submit to Congress notice in writing
 14 of such date.

15 (c) CLERICAL AMENDMENT.—The table of sections
 16 at the beginning of such chapter is amended by adding
 17 at the end the following new items:

“SUBCHAPTER V—SERVICEMEMBERS’ GROUP DISABILITY INSURANCE

- “1991. Definitions; program name.
- “1992. Program authority; eligible insurance companies.
- “1993. Persons insured; amount.
- “1994. Qualifying disabilities.
- “1995. Duration and termination of coverage.
- “1996. Premiums: deductions and payments; investment; expenses.
- “1997. Payment of insurance.
- “1998. Premiums; readjustment of rates.
- “1999. Other provisions.”.

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