

110TH CONGRESS  
2D SESSION

# H. R. 5509

To amend titles 10 and 38, United States Code, to improve and enhance procedures for the retirement of members of the Armed Forces for disability and to improve and enhance authorities for the rating and compensation of service-connected disabilities in veterans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2008

Mr. BUYER introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on Armed Services and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles 10 and 38, United States Code, to improve and enhance procedures for the retirement of members of the Armed Forces for disability and to improve and enhance authorities for the rating and compensation of service-connected disabilities in veterans, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Noble Warrior Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—RETIREMENT OF MEMBERS OF THE ARMED FORCES  
FOR DISABILITY**

Sec. 101. Retirement for disability of members of the Armed Forces after im-  
plementation of enhanced Department of Veterans Affairs dis-  
ability compensation system.

Sec. 102. Continuation of respite care and aid and other extended care benefits  
for members of the uniformed services who incur a serious in-  
jury or illness on active duty.

**TITLE II—COMPENSATION OF VETERANS FOR SERVICE-  
CONNECTED DISABILITY**

Sec. 201. Study on veterans disability compensation.

Sec. 202. Study on veterans transition benefits.

Sec. 203. Study on measures to assist and encourage veterans in the comple-  
tion of their vocational rehabilitation plans.

Sec. 204. Proposal on veterans disability compensation and veterans transition  
benefits.

Sec. 205. Congressional consideration of proposal.

Sec. 206. Effective date of implementation of enhanced Department of Vet-  
erans Affairs disability compensation system.

Sec. 207. Enhanced Department of Veterans Affairs disability compensation  
system.

Sec. 208. Supplemental survivor benefit for survivors of veterans retired for dis-  
ability after implementation of enhanced Department of Vet-  
erans Affairs disability compensation system.

1 **TITLE I—RETIREMENT OF MEM-**  
2 **BERS OF THE ARMED FORCES**  
3 **FOR DISABILITY**

4 **SEC. 101. RETIREMENT FOR DISABILITY OF MEMBERS OF**  
5 **THE ARMED FORCES AFTER IMPLEMENTA-**  
6 **TION OF ENHANCED DEPARTMENT OF VET-**  
7 **ERANS AFFAIRS DISABILITY COMPENSATION**  
8 **SYSTEM.**

9 (a) IN GENERAL.—Chapter 61 of title 10, United  
10 States Code, is amended—

11 (1) by inserting before section 1201 the fol-  
12 lowing:

1 “SUBCHAPTER I—RETIREMENT OR SEPARA-  
 2 TION BEFORE IMPLEMENTATION OF EN-  
 3 HANCED DEPARTMENT OF VETERANS AF-  
 4 FAIRS DISABILITY COMPENSATION SYSTEM

5 **“§ 1200. Applicability of subchapter: members retired**  
 6 **or separated before implementation of**  
 7 **enhanced Department of Veterans Affairs**  
 8 **disability compensation system; certain**  
 9 **members on temporary disability retired**  
 10 **list as of implementation of enhanced De-**  
 11 **partment of Veterans Affairs disability**  
 12 **compensation system**

13 “(a) IN GENERAL.—Except as provided in subsection  
 14 (b), this subchapter applies to the retirement or separation  
 15 for disability of members as follows:

16 “(1) Members who are eligible for retirement  
 17 for disability or separation for disability before the  
 18 effective date of the implementation of the enhanced  
 19 Department of Veterans Affairs disability compensa-  
 20 tion system under chapter 12 of title 38 (as deter-  
 21 mined in accordance with section 206 of the Noble  
 22 Warrior Act).

23 “(2) Members on the temporary disability re-  
 24 tired list as of the effective date of the implementa-

1       tion of the enhanced Department of Veterans Affairs  
2       disability compensation system who—

3               “(A) are eligible for retirement under the  
4               provisions of subchapter II in accordance with  
5               section 1206c of this title; but

6               “(B) do not elect to retire under the provi-  
7               sions of subchapter II as otherwise provided in  
8               section 1206c of this title.

9       “(b) INAPPLICABILITY TO CERTAIN MEMBERS.—For  
10      provisions relating to the applicability of subchapter II to  
11      the retirement for disability of certain members otherwise  
12      covered by this subchapter under subsection (a)(1), see  
13      section 1206b of this title.”;

14              (2) by transferring section 1206a to appear  
15      after section 1207a and redesignating such section,  
16      as so transferred, as section 1207b; and

17              (3) by inserting after section 1206 the fol-  
18      lowing:

1 “SUBCHAPTER II—RETIREMENT AFTER IMPLE-  
2 MENTATION OF ENHANCED DEPARTMENT  
3 OF VETERANS AFFAIRS DISABILITY COM-  
4 PENSATION SYSTEM

5 “§ 1206a. **Applicability of subchapter: members re-**  
6 **tired on or after implementation of en-**  
7 **hanced Department of Veterans Affairs**  
8 **disability compensation system**

9 “(a) IN GENERAL.—This subchapter applies to the  
10 retirement of members for disability (including the place-  
11 ment of members on the temporary disability retired list  
12 in accordance with section 1206e of this title) on or after  
13 the effective date of the implementation of the enhanced  
14 Department of Veterans Affairs disability compensation  
15 system (as determined in accordance with section 206 of  
16 the Noble Warrior Act).

17 “(b) EXCLUSIVE APPLICATION.—Members eligible  
18 for retirement under this subchapter by reason of this sec-  
19 tion are not eligible for retirement or separation under  
20 subchapter I.

1 **“§ 1206b. Applicability of subchapter: certain mem-**  
2 **bers retired on or after October 7, 2001,**  
3 **but before implementation of enhanced**  
4 **Department of Veterans Affairs disability**  
5 **compensation system**

6 “(a) ELECTION OF APPLICABILITY.—(1) During  
7 such period as the Secretary of Defense shall prescribe  
8 for purposes of this section, a former member described  
9 in subsection (b) may elect to retire under this subchapter  
10 in lieu of retirement under the provisions of this chapter  
11 as in effect on the day before the effective date of the  
12 implementation of the enhanced Department of Veterans  
13 Affairs disability compensation system (as determined in  
14 accordance with section 206 of the Noble Warrior Act).

15 “(2) Each election under this subsection shall be exe-  
16 cuted in such form and manner as the Secretary of De-  
17 fense shall prescribe for purposes of this section.

18 “(3) Any election made under this subsection is irrev-  
19 ocable.

20 “(b) COVERED FORMER MEMBERS.—A former mem-  
21 ber described in this subsection is any former member  
22 who, during the period beginning on October 7, 2001, and  
23 ending on the day before the effective date of the imple-  
24 mentation of the enhanced Department of Veterans Af-  
25 fairs disability compensation system, is retired under the  
26 provisions of this chapter as in effect before the effective

1 date of the implementation of the enhanced Department  
2 of Veterans Affairs disability compensation system.

3 “(c) TREATMENT OF FORMER MEMBERS MAKING  
4 ELECTIONS.—(1) Effective as of the date of the correction  
5 of the military records of such former member under sub-  
6 section (d), each former member who makes an election  
7 under subsection (a) shall be deemed to have been retired  
8 under this subchapter, with retired pay computed under  
9 section 1401 of this title (as in effect after the effective  
10 date of the implementation of the enhanced Department  
11 of Veterans Affairs disability compensation system), rath-  
12 er than to have been retired under the provisions of this  
13 chapter as in effect before the effective date of the imple-  
14 mentation of the enhanced Department of Veterans Af-  
15 fairs disability compensation system.

16 “(2) No benefits are available to a former member  
17 under this subchapter for any period before the correction  
18 of the military records of the former member under sub-  
19 section (d).

20 “(3) The Secretary of Defense may not recoup or col-  
21 lect from any former member who is retired under this  
22 subchapter pursuant to an election under subsection (a)  
23 any amount of retired pay paid to the former member  
24 under this chapter before the date of the effective date



1 of the correction of the military records of the former  
2 member under subsection (d).

3 “(d) CORRECTION OF MILITARY RECORDS.—The  
4 Secretary concerned shall correct the military records of  
5 each former member making an election under subsection  
6 (a) to reflect that the former member is retired under the  
7 provisions of this subchapter rather than retired under the  
8 provisions of this chapter as in effect before the effective  
9 date of the implementation of the enhanced Department  
10 of Veterans Affairs disability compensation system.

11 **“§ 1206c. Applicability of subchapter: members on**  
12 **temporary disability retired list as of im-**  
13 **plementation of enhanced Department of**  
14 **Veterans Affairs disability compensation**  
15 **system**

16 “(a) ELECTION OF APPLICABILITY.—(1) A member  
17 described in subsection (b) may elect to retire under this  
18 subchapter in lieu of retirement under the provisions of  
19 subchapter I.

20 “(2) Each election under this subsection shall be exe-  
21 cuted in such form and manner as the Secretary of De-  
22 fense shall prescribe for purposes of this section.

23 “(3) Any election made under this subsection is irrev-  
24 ocable.

1       “(b) COVERED MEMBERS.—A member described in  
2 this subsection is any member—

3               “(1) whose name is on the temporary disability  
4 retired list as of the effective date of the implemen-  
5 tation of the enhanced Department of Veterans Af-  
6 fairs disability compensation system (as determined  
7 in accordance with section 206 of the Noble Warrior  
8 Act); and

9               “(2)(A) whose disability qualifying the member  
10 for placement on the temporary disability retired list  
11 is determined after such effective date by the Sec-  
12 retary concerned, based on accepted medical prin-  
13 ciples, to be of a permanent nature and stable; or

14               “(B) whose disability is considered after such  
15 effective date by the Secretary concerned to be of a  
16 permanent nature and stable after five years of the  
17 placement of the member’s name on the temporary  
18 disability retired list in accordance with section  
19 1210(b) of this title.

20       “(c) TIMING OF ELECTION.—A member eligible to  
21 make an election under subsection (a) by reason of a de-  
22 termination under subparagraph (A) or (B) of subsection  
23 (b)(2) shall make such election, if at all, during such pe-  
24 riod after the date of the determination as the Secretary  
25 of Defense shall prescribe for purposes of this section.

1       “(d) TREATMENT OF MEMBERS MAKING ELEC-  
 2 TIONS.—(1) Effective as of the date of such election, each  
 3 member who makes an election under subsection (a) shall  
 4 be retired under this subchapter, with retired pay com-  
 5 puted under section 1401 of this title (as in effect after  
 6 the effective date of the implementation of the enhanced  
 7 Department of Veterans Affairs disability compensation  
 8 system).

9       “(2) No benefits are available to a member under this  
 10 subchapter for any period before the election of the mem-  
 11 ber under subsection (a).

12       “(3) The Secretary of Defense may not recoup or col-  
 13 lect from any member who is retired under this subchapter  
 14 pursuant to an election under subsection (a) any amount  
 15 of retired pay paid to the member under this chapter be-  
 16 fore the date of the election of the member under sub-  
 17 section (a).

18 **“§ 1206d. Retirement**

19       “(a) IN GENERAL.—Upon a determination by the  
 20 Secretary concerned that a member covered by this sub-  
 21 chapter under section 1206a of this title is unfit to per-  
 22 form the duties of the member’s office, grade, rank, or  
 23 rating because of physical disability, the Secretary may,  
 24 consistent with regulations prescribed by the Secretary of  
 25 Defense for purposes of this subchapter, retire the mem-

1 ber, with retired pay computed under section 1401 of this  
2 title (as in effect after the effective date of the implemen-  
3 tation of the enhanced Department of Veterans Affairs  
4 disability compensation system), if the Secretary con-  
5 cerned also makes the determinations specified in sub-  
6 section (b) with respect to the member.

7 “(b) DETERMINATIONS.—The determinations speci-  
8 fied in this subsection with respect to a member are deter-  
9 minations by the Secretary concerned as follows:

10 “(1) That the disability of the member, based  
11 upon accepted medical principles—

12 “(A) is of a permanent nature; or

13 “(B) is of uncertain permanency, such that  
14 a temporary disability retirement under section  
15 1206e of this title is appropriate.

16 “(2) That the injury, illness, or disease ren-  
17 dering the member unfit was incurred or aggravated  
18 in the line of duty—

19 “(A) while the member was entitled to  
20 basic pay under section 204 of title 37 or com-  
21 pensation under section 206 of that title;

22 “(B) while performing active duty but not  
23 entitled to basic pay under section 204 of title  
24 37 or inactive-duty training; or

1           “(C) while engaged in an activity covered  
2           by section 1201(c)(3), 1204(2)(B), or  
3           1204(2)(C) of this title.

4           “(3) That the injury, illness, or disease was  
5           not—

6           “(A) the result of the member’s intentional  
7           misconduct or willful neglect; or

8           “(B) incurred during a period of unauthor-  
9           ized absence.

10   **“§ 1206e. Temporary disability retired list**

11       “(a) IN GENERAL.—Subject to the provisions of this  
12       section, a member covered by section 1206d(b) of this title  
13       who is described by paragraph (1)(B) of such section shall  
14       have such member’s name placed on the temporary dis-  
15       ability retired list, with retired pay computed under sec-  
16       tion 1401 of this title (as in effect after the effective date  
17       of the implementation of the enhanced Department of Vet-  
18       erans Affairs disability compensation system (as deter-  
19       mined in accordance with section 206 of the Noble War-  
20       rior Act)).

21       “(b) ADMINISTRATION.—(1) Subsection (a) shall be  
22       administered in accordance with such regulations as the  
23       Secretary of Defense shall prescribe for purposes of this  
24       section.

1       “(2)(A) Except as provided in subparagraph (B), the  
2 regulations prescribed under this subsection shall provide  
3 for the applicability of the provisions of sections 1210 and  
4 1211 of this title to a member whose name is placed on  
5 the temporary disability retired list under this section.

6       “(B) The provisions of subsections (c), (d), and (e)  
7 of section 1210 of this title shall not apply to a member  
8 whose name is placed on the temporary disability retired  
9 list under this section.

10       “(3)(A) The regulations shall provide for appropriate  
11 mechanisms, applicable uniformly across the military de-  
12 partments, for an annual review by the military depart-  
13 ments of determinations to place members’ names on the  
14 temporary disability retired list under this section in order  
15 to ensure the accuracy and consistency of such determina-  
16 tions by the military departments.

17       “(B) The Secretary of Defense shall submit to the  
18 Committees on Armed Services of the Senate and the  
19 House of Representatives each year a report on the results  
20 of the reviews conducted by the military departments  
21 under subparagraph (A) during the preceding year.

22       “(c) RETIREMENT.—If, as a result of a periodic ex-  
23 amination under section 1210(a) of this title or upon a  
24 final determination under section 1210(b) of this title, it  
25 is determined that a member’s physical disability is of a

1 permanent nature, the member's name shall be removed  
 2 from the temporary disability retired list, and the member  
 3 shall be retired under section 1206d of this title.

4 **“§ 1206f. Treatment of retired pay**

5 “(a) IN GENERAL.—Retired pay authorized by this  
 6 subchapter shall be treated as retired pay for all purposes  
 7 under this title, including for purposes of eligibility for  
 8 medical and dental care under chapter 55 of this title.

9 “(b) NO OFFSET UNDER DUPLICATION OF BENE-  
 10 FITS.—Retired pay authorized by this subchapter is not  
 11 subject to the prohibitions against duplication of benefits  
 12 under sections 5304 and 5305 of title 38.

13 “(c) INELIGIBILITY FOR COMBAT-RELATED SPECIAL  
 14 COMPENSATION.—A member retired under this sub-  
 15 chapter is not eligible for combat-related special com-  
 16 pensation under section 1413a of this title.

17 “(d) INELIGIBILITY FOR CERTAIN SPACE-AVAILABLE  
 18 TRAVEL.—A member retired under this subchapter resid-  
 19 ing in a Commonwealth or possession of the United States  
 20 is not eligible for space-available travel on Department of  
 21 Defense aircraft under section 2461b of this title.

22 **“§ 1206g. Determinations of unfitness**

23 “(a) IN GENERAL.—In this subchapter, a finding of  
 24 unfitness for duty with respect to a member shall be based  
 25 on determinations by the Secretary concerned that—

1           “(1) the member is unfit to perform the duties  
2           of the member’s office, grade, rank, or rating be-  
3           cause of a physical disability; and

4           “(2) it is unlikely that through retraining in an-  
5           other occupational specialty or other preparations  
6           the member can be reassigned to other duties the  
7           member would be fit to perform and which are con-  
8           sistent with the needs of the armed force concerned.

9           “(b) INTERSERVICE TRANSFER.—With the consent  
10          of a member determined unfit for duty under subsection  
11          (a), the member may, instead of being retired under this  
12          subchapter, be transferred under section 716 of this title  
13          to another uniformed service if the Secretary responsible  
14          for that uniformed service determines that the member,  
15          currently or through retraining in another occupational  
16          specialty or other preparations, can be reassigned to other  
17          duties the member would be fit to perform and which are  
18          consistent with the needs of that uniformed service.

19          “(c) CONTINUATION OF SERVICE OF MEMBER DE-  
20          TERMINED UNFIT.—Upon the agreement of a member de-  
21          termined unfit for duty under subsection (a) and the Sec-  
22          retary concerned, the member’s service may be continued  
23          under terms and conditions specified by the Secretary con-  
24          cerned, including through transfer to another uniformed  
25          service under section 716 of this title.



1 **“§ 1206h. Definitions**

2 “In this subchapter, the terms ‘disability’ and ‘phys-  
3 ical disability’ include any disability based on a mental dis-  
4 order.

5 “SUBCHAPTER III—ADMINISTRATIVE  
6 MATTERS”.

7 (b) CLERICAL AMENDMENTS.—Chapter 61 of such  
8 title is further amended—

9 (1) by inserting after the chapter heading the  
10 following:

“Subchapter	Sec.
“I. Retirement or Separation Before Implementation of Enhanced De- partment of Veterans Affairs Disability Compensation System .....	1200
“II. Retirement After Implementation of Enhanced Department of Vet- erans Affairs Disability Compensation System .....	1206a
“III. Administrative Matters .....	1207”;

11 (2) by inserting after the subchapter heading  
12 for subchapter I, as added by subsection (a)(1) of  
13 this section, the following:

“Sec.
“1200. Applicability of subchapter: members retired or separated before imple- mentation of enhanced Department of Veterans Affairs dis- ability compensation system; certain members on temporary disability retired list as of implementation of enhanced Depart- ment of Veterans Affairs disability compensation system.
“1201. Regulars and members on active duty for more than 30 days: retirement.
“1202. Regulars and members on active duty for more than 30 days: temporary disability retired list.
“1203. Regulars and members on active duty for more than 30 days: separation.
“1204. Members on active duty for 30 days or less or on inactive-duty training: retirement.
“1205. Members on active duty for 30 days or less or on inactive-duty training: temporary disability retired list.
“1206. Members on active duty for 30 days or less or on inactive-duty training: separation.”;

1           (3) by inserting after the subchapter heading  
 2           for subchapter II, as added by subsection (a)(3) of  
 3           this section, the following:

“Sec.

“1206a. Applicability of subchapter: members retired on or after implementation of enhanced Department of Veterans Affairs disability compensation system.

“1206b. Applicability of subchapter: certain members retired on or after October 7, 2001, but before implementation of enhanced Department of Veterans Affairs disability compensation system.

“1206c. Applicability of subchapter: members on temporary disability retired list as of implementation of enhanced Department of Veterans Affairs disability compensation system.

“1206d. Retirement.

“1206e. Temporary disability retired list.

“1206f. Treatment of retired pay.

“1206g. Determinations of unfitness.

“1206h. Definitions.”;

4           and

5           (4) by inserting after the subchapter heading  
 6           for subchapter III, as so added, the following:

“Sec.

“1207. Disability from intentional misconduct or willful neglect: separation.

“1207a. Members with over eight years of active service: eligibility for disability retirement for pre-existing conditions.

“1207b. Reserve component members unable to perform duties when ordered to active duty: disability system processing.

“1208. Computation of service.

“1209. Transfer to inactive status list instead of separation.

“1210. Members on temporary disability retired list: periodic physical examination; final determination of status.

“1211. Members on temporary disability retired list: return to active duty; promotion.

“1212. Disability severance pay.

“1213. Effect of separation on benefits and claims.

“1214. Right to full and fair hearing.

“1215. Members other than Regulars: applicability of laws.

“1216. Secretaries: powers, functions, and duties.

“1217. Academy cadets and midshipmen: applicability of chapter.

“1218. Discharge or release from active duty: claims for compensation, pension, or hospitalization.

“1219. Statement of origin of disease or injury: limitations.

“1221. Effective date of retirement or placement of name on temporary disability retired list.”.

1 SERVICE.—Section 1207a(a) of title 10, United States  
 2 Code, is amended by striking “or 1203” and inserting  
 3 “1203, 1206b, 1206c, 1206d, or 1206e”.

4 (d) COMPUTATION OF RETIRED PAY.—The table in  
 5 section 1401(a) of title 10, United States Code, is amend-  
 6 ed by inserting after the matter relating to Formula 2 the  
 7 following matter:

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“3	1206b	Retired pay base	2½% of years of service
	1206c	as computed	credited to the person
	1206d	under section	under section 1208.1”.
	1206e	1406(b) or	
		1407.	

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8 (e) CONFORMING AMENDMENTS RELATING TO RE-  
 9 TIRED PAY.—

10 (1) RECOMPUTATION OF RETIRED PAY TO RE-  
 11 FLECT LATER ACTIVE DUTY.—Sections 1402(b) and  
 12 1402a(b) of title 10, United States Code, are each  
 13 amended by inserting “(as in effect before the effec-  
 14 tive date of the implementation of the enhanced De-  
 15 partment of Veterans Affairs disability compensation  
 16 system (as determined in accordance with section  
 17 206 of the Noble Warrior Act) or subchapter I of  
 18 chapter 61 of this title (as in effect after such effec-  
 19 tive date), as applicable” after “chapter 61 of this  
 20 title”.

21 (2) RETIRED PAY BASE FOR MEMBERS RETIRED  
 22 BEFORE SEPTEMBER 8, 1980.—The items in the col-

1       tive date), as applicable” after “chapter 61 of this  
2       title”.

3               (2) RETIRED PAY BASE FOR MEMBERS RETIRED  
4       BEFORE SEPTEMBER 8, 1980.—The items in the col-  
5       umn in the table in section 1406(b)(1) of such title  
6       designated “For a member entitled to retired pay  
7       under section:” are amended to read as follows:

“1201  
1202  
1204  
1205  
1206b  
1206c  
1206d  
1206e”.

8               (3) RETIRED PAY BASE FOR MEMBERS RETIRED  
9       AFTER SEPTEMBER 7, 1980.—Section 1407 of such  
10      title is amended—

11              (A) in subsection (c)—

12                      (i) in paragraph (1), by striking  
13                      “other than section 1204 or 1205 or sec-  
14                      tion 12731 of this title” and inserting  
15                      “(other than section 1204, 1205, or 12731  
16                      of this title, or section 1206b, 1206c,  
17                      1206d, or 1206e of this title for nonreg-  
18                      ular service)”;  
19                      (ii) in paragraph (2), by inserting “,

20                      or under section 1206b, 1206c, 1206d, or  
21                      1206e of this title for regular service,”

1 after “section 1201 or 1202 of this title”;

2 and

3 (iii) in paragraph (3)—

4 (I) by striking “section 1201 or  
5 1202” and inserting “section 1201,  
6 1202, 1206b, 1206c, 1206d, or  
7 1206e”; and

8 (II) by inserting “or under sec-  
9 tion 1206b, 1206c, 1206d, or 1206e  
10 of this title for nonregular service”  
11 before the period; and

12 (B) in subsection (d)—

13 (i) in paragraph (2), by inserting “, or  
14 under section 1206b, 1206c, 1206d, or  
15 1206e of this title for nonregular service,”  
16 after “section 1204 or 1205 of this title”;  
17 and

18 (ii) in paragraph (3), inserting “, or  
19 under section 1206, 1206c, 1206d, or  
20 1206e of this title for nonregular service,”  
21 after “section 1204 or 1205 of this title”.

22 (4) GRADE ON RETIREMENT FOR PHYSICAL  
23 DISABILITY.—Section 1372 of such title is amend-  
24 ed—

1 (A) by striking “section 1201 or 1204”  
2 and inserting “section 1201, 1204, 1206b,  
3 1206c, or 1206d”; and

4 (B) by striking “section 1202 or 1205”  
5 and inserting “section 1202, 1205, or 1206e”.

6 (f) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), this section and the amendments made by  
9 this section shall take effect, if at all, on the effec-  
10 tive date of the implementation of the enhanced De-  
11 partment of Veterans Affairs disability compensation  
12 system as determined in accordance with section  
13 206.

14 (2) ANTICIPATION OF IMPLEMENTATION.—The  
15 Secretary of Defense shall take appropriate actions  
16 to ensure that the amendments made by this section  
17 are implementable on the effective date described in  
18 paragraph (1) in the event of the implementation of  
19 the enhanced Department of Veterans Affairs dis-  
20 ability compensation system on that date.

1 **SEC. 102. CONTINUATION OF RESPITE CARE AND AID AND**  
 2 **OTHER EXTENDED CARE BENEFITS FOR**  
 3 **MEMBERS OF THE UNIFORMED SERVICES**  
 4 **WHO INCUR A SERIOUS INJURY OR ILLNESS**  
 5 **ON ACTIVE DUTY.**

6 Paragraph (4) of section 1074(c) of title 10, United  
 7 States Code, as added by section 1633(a) of the Wounded  
 8 Warrior Act (title XVI of the National Defense Authoriza-  
 9 tion Act for Fiscal Year 2008), is amended—

10 (1) by redesignating subparagraph (B) as sub-  
 11 paragraph (C); and

12 (2) by inserting after subparagraph (A) the fol-  
 13 lowing new subparagraph (B):

14 “(B) Coverage for a member under this paragraph  
 15 may continue for such period after the discharge or sepa-  
 16 ration of the member from active duty as the Secretary  
 17 considers appropriate.”.

18 **TITLE II—COMPENSATION OF**  
 19 **VETERANS FOR SERVICE-**  
 20 **CONNECTED DISABILITY**

21 **SEC. 201. STUDY ON VETERANS DISABILITY COMPENSA-**  
 22 **TION.**

23 (a) IN GENERAL.—The Secretary of Veterans Affairs  
 24 shall conduct a study to determine the amount of com-  
 25 pensation for service-connected disability to be payable to  
 26 veterans under chapter 12 of title 38, United States Code

1 (as added by section 207(b) of this Act), for each rating  
2 of disability assignable to veterans for service-connected  
3 disability.

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

7 (1) The nature of injuries and combination of  
8 injuries for which disability compensation is payable  
9 under various disability compensation programs of  
10 the Federal Government, State governments, and  
11 other countries.

12 (2) To the extent applicable, the nature of inju-  
13 ries and combination of injuries for which disability  
14 compensation is payable under commercial disability  
15 insurance.

16 (3) The extent to which quality of life and loss  
17 of earnings are independently taken into account in  
18 various disability compensation programs of the  
19 Federal Government, State governments, and other  
20 countries.

21 (4) The effect of an injury or combination of in-  
22 juries on—

23 (A) average loss of earning capacity, such  
24 as inability to work in certain occupations; and



1 (B) a veteran's quality of life, such as ac-  
2 tivities of independent living, recreational and  
3 community activities, and personal relation-  
4 ships, including the inability to participate in  
5 favorite activities, social problems related to dis-  
6 figurement or cognitive difficulties, and the  
7 need to spend increased amounts of time per-  
8 forming activities of daily living.

9 (5) The measurement of the effect of an injury  
10 or combination of injuries on a veteran's psycho-  
11 logical state, loss of physical integrity, and social in-  
12 ability to adapt.

13 (6) The extent to which disability compensation  
14 for veterans may be used as an incentive to encour-  
15 age veterans to seek and undergo appropriate med-  
16 ical treatment and vocational rehabilitation.

17 (c) CONSIDERATIONS IN DETERMINATIONS OF  
18 AMOUNTS OF COMPENSATION.—

19 (1) GENERAL CONSIDERATIONS.—In deter-  
20 mining amounts of compensation under the study re-  
21 quired by subsection (a), the Secretary shall ensure  
22 that the determinations—

23 (A) reflect current concepts of medicine  
24 and disability; and

1           (B) take into account loss of quality of life  
2           and average loss of earning capacity resulting  
3           from specific injuries or combinations of inju-  
4           ries.

5           (2) SPECIFIC CONSIDERATIONS.—In deter-  
6           mining amounts of compensation, the Secretary shall  
7           consider the following:

8           (A) The appropriate injuries or combina-  
9           tion of injuries to be covered by the new sched-  
10          ule for rating service-connected disabilities.

11          (B) The appropriate level of compensation  
12          under that schedule for loss of quality of life.

13          (C) The appropriate standards for deter-  
14          mining for purposes of that schedule whether  
15          an injury or combination of injuries has caused  
16          a loss in a veteran's quality of life.

17          (D) The appropriate level of compensation,  
18          including an age-appropriate level of compensa-  
19          tion at time of initial filing of claims, under  
20          that schedule for loss of earnings.

21          (E) The appropriate standards for pur-  
22          poses of that schedule for determining whether  
23          an injury or combination of injuries causes loss  
24          of earnings.

1           (F) The appropriate relationship between  
2           the receipt of compensation under that sched-  
3           ule, and, where appropriate, assurances by the  
4           veterans concerned of participation in a regi-  
5           men of medical treatment or vocational rehabili-  
6           tation.

7           (d) CONSULTATION.—In conducting the study re-  
8           quired by subsection (a), the Secretary—

9           (1) shall consult with such veterans and mili-  
10          tary service organizations and with such public and  
11          private organizations and individuals as the Sec-  
12          retary considers appropriate; and

13          (2) may employ consultants.

14          (e) CONSIDERATION OF COMPLETED AND ON-GOING  
15          STUDIES.—In conducting the study required by subsection  
16          (a), the Secretary may take into account the findings, de-  
17          terminations, and results of any completed or on-going  
18          study or report applicable to the matters addressed by the  
19          study required by subsection (a) that the Secretary con-  
20          siders appropriate.

21          (f) REPORT.—Not later than 270 days after the com-  
22          mencement of the study required by subsection (a), the  
23          Secretary shall submit to the Committee on Veterans' Af-  
24          fairs of the Senate and the Committee on Veterans' Af-

1   fairs of the House of Representatives a report on the  
2   study. The report shall include the following:

3           (1) The findings of the Secretary under the  
4   study.

5           (2) The findings of the Secretary with respect  
6   to matters covered by the study arising from—

7                   (A) the report of the Veterans’ Disability  
8   Benefits Commission established pursuant to  
9   section 1501 of the National Defense Author-  
10   ization Act of 2004 (38 U.S.C. 1101 note); and

11                   (B) the reports of any other independent  
12   advisory commission that has studied the mat-  
13   ters covered by the study as the Secretary con-  
14   siders appropriate.

15           (3) The recommendations of the Secretary on  
16   the matters considered under subparagraphs (A),  
17   (C), (E), and (F) of subsection (c)(2), including a  
18   proposal for such legislative or administrative action  
19   as the Secretary considers appropriate to implement  
20   the recommendations.

21   **SEC. 202. STUDY ON VETERANS TRANSITION BENEFITS.**

22           (a) IN GENERAL.—The Secretary of Veterans Affairs  
23   shall conduct a study to determine the appropriate  
24   amounts and duration of transition payments to be pay-  
25   able under chapter 12 of title 38, United States Code (as

1 added by section 207(b) of this Act), including the amount  
2 of monthly transition payments to be payable under sec-  
3 tion 1204(b) of title 38, United States Code (as so added),  
4 and the amount and duration of rehabilitation transition  
5 allowances to be payable under section 1204(c) of title 38,  
6 United States Code (as so added), to veterans who are  
7 participating in a rehabilitation program under chapter 17  
8 or 31 of title 38, United States Code.

9 (b) CONSIDERATIONS.—In determining under sub-  
10 section (a) the amount and duration of rehabilitation tran-  
11 sition allowances to be payable under section 1204(c) of  
12 title 38, United States Code (as so added), to veterans  
13 who are participating in a rehabilitation program under  
14 chapter 17 or 31 of title 38, United States Code, the Sec-  
15 retary shall take into account the prohibition in paragraph  
16 (7) of such section 1204(c) on the payment of subsistence  
17 allowances otherwise authorized by section 3108 of title  
18 38, United States Code, to veterans paid rehabilitation  
19 transition allowances under such section 1204(c).

20 (c) CONSULTATION.—In conducting the study re-  
21 quired by subsection (a), the Secretary—

22 (1) shall consult with such veterans and mili-  
23 tary service organizations and with such public and  
24 private organizations and individuals as the Sec-  
25 retary considers appropriate; and

1           (2) may employ consultants.

2           (d) CONSIDERATION OF COMPLETED AND ON-GOING  
3 STUDIES.—In conducting the study required by subsection  
4 (a), the Secretary may take into account the findings, de-  
5 terminations, and results of any completed or on-going  
6 study or report applicable to the matters addressed by the  
7 study required by subsection (a) that the Secretary con-  
8 siderers appropriate.

9           (e) REPORT.—Not later than 270 days after the com-  
10 mencement of the study required by subsection (a), the  
11 Secretary shall submit to the Committee on Veterans' Af-  
12 fairs of the Senate and the Committee on Veterans' Af-  
13 fairs of the House of Representatives a report on the  
14 study. The report shall include the following:

15           (1) The findings of the Secretary under the  
16 study.

17           (2) The findings of the Secretary with respect  
18 to matters covered by the study arising from—

19           (A) the report of the Veterans' Disability  
20 Benefits Commission established pursuant to  
21 section 1501 of the National Defense Author-  
22 ization Act of 2004 (38 U.S.C. 1101 note); and

23           (B) the reports of such other independent  
24 advisory commissions that have studied the

1 matters covered by the study as the Secretary  
2 considers appropriate.

3 **SEC. 203. STUDY ON MEASURES TO ASSIST AND ENCOUR-**  
4 **AGE VETERANS IN THE COMPLETION OF**  
5 **THEIR VOCATIONAL REHABILITATION PLANS.**

6 (a) IN GENERAL.—The Secretary of Veterans Affairs  
7 shall conduct a study to identify the following:

8 (1) The various factors that may prevent or  
9 preclude veterans from completing their vocational  
10 rehabilitation plans through the Department of Vet-  
11 erans Affairs or otherwise achieving the vocational  
12 rehabilitation objectives of such plans.

13 (2) Actions to be taken by the Secretary to as-  
14 sist and encourage veterans in overcoming such fac-  
15 tors and in otherwise completing their vocational re-  
16 habilitation plans or achieving the vocational reha-  
17 bilitation objectives of such plans.

18 (b) MATTERS TO BE EXAMINED.—In conducting the  
19 study required by subsection (a), the Secretary shall exam-  
20 ine the following:

21 (1) Measures utilized in other disability systems  
22 in the United States, and in other countries, to en-  
23 courage completion of vocational rehabilitation.

24 (2) Any survey data available to the Secretary  
25 that relates to the matters covered by the study.

1           (3) The results of the studies conducted pursu-  
2           ant to sections 201 and 202, including any analysis  
3           for purposes of such studies of the extent to which  
4           disability compensation may be used as an incentive  
5           to encourage veterans to undergo and complete voca-  
6           tional rehabilitation.

7           (4) The report of the Veterans' Disability Bene-  
8           fits Commission established pursuant to section  
9           1501 of the National Defense Authorization Act of  
10          2004 (38 U.S.C. 1101 note).

11          (5) The report of the President's Commission  
12          on Care for America's Returning Wounded War-  
13          riors.

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

16               (1) the extent to which bonus payments or  
17               other incentives may be used to encourage veterans  
18               to complete their vocational rehabilitation plans or  
19               otherwise achieve the vocational rehabilitation objec-  
20               tives of such plans; and

21               (2) such other matters as the Secretary con-  
22               siders appropriate.

23          (d) CONSULTATION.—In conducting the study re-  
24          quired by subsection (a), the Secretary—



1           (1) shall consult with such veterans and mili-  
2       tary service organizations and with such public and  
3       private organizations and individuals as the Sec-  
4       retary considers appropriate; and

5           (2) may employ consultants.

6       (e) REPORT.—Not later than 270 days after the com-  
7       mencement of the study required by subsection (a), the  
8       Secretary shall submit to the Committee on Veterans’ Af-  
9       fairs of the Senate and the Committee on Veterans’ Af-  
10      fairs of the House of Representatives a report on the  
11      study. The report shall include the following:

12           (1) The findings of the Secretary under the  
13      study.

14           (2) Any recommendations that the Secretary  
15      considers appropriate for actions to be taken by the  
16      Secretary in light of the study, including a proposal  
17      for such legislative or administrative action as the  
18      Secretary considers appropriate to implement the  
19      recommendations.

20   **SEC. 204. PROPOSAL ON VETERANS DISABILITY COMPENSA-**  
21                           **TION AND VETERANS TRANSITION BENEFITS.**

22      Not later than one year after the later of the dates  
23      of the reports required by sections 201(f) and 202(d), the  
24      Secretary of Veterans Affairs shall submit to Congress a  
25      proposal setting forth the following:

1           (1) A statement of the purpose or purposes of  
2           the disability compensation and transition payments  
3           to be payable to veterans under chapter 12 of title  
4           38, United States Code (as added by section 207(b)  
5           of this Act).

6           (2) A statement of the amounts of compensa-  
7           tion for service-connected disability to be payable to  
8           veterans under chapter 12 of title 38, United States  
9           Code (as so added), for each rating of disability as-  
10          signable to veterans for service-connected disability.

11          (3) A statement of the amounts and duration of  
12          transition benefits to be payable to veterans under  
13          chapter 12 of title 38, United States Code (as so  
14          added), including the amount of monthly transition  
15          payments to be payable under section 1204(b) of  
16          title 38, United States Code (as so added), and the  
17          amount and duration of rehabilitation transition al-  
18          lowances to be payable under section 1204(c) of title  
19          38, United States Code (as so added), to veterans  
20          who are participating in a rehabilitation program  
21          under chapter 17 or 31 of title 38, United States  
22          Code.

23 **SEC. 205. CONGRESSIONAL CONSIDERATION OF PROPOSAL.**

24          (a) **TERMS OF JOINT RESOLUTION.**—For purposes of  
25          this section, the term “joint resolution” means only a joint

1 resolution which is introduced within the 10-day period  
2 beginning on the date on which the Secretary of Veterans  
3 Affairs submits to Congress the proposal of the Secretary  
4 of Veterans Affairs on veterans disability compensation  
5 and veterans transition benefits under section 204, and—

6 (1) which does not have a preamble;

7 (2) the matter after the resolving clause of  
8 which is as follows: “That Congress disapproves the  
9 proposal on veterans disability compensation and  
10 veterans transition benefits under section 204 of the  
11 Noble Warrior Act as submitted to Congress on  
12 \_\_\_\_\_”, the blank space being filled in with  
13 the appropriate date; and

14 (3) the title of which is as follows: “Joint reso-  
15 lution disapproving the proposal of the Secretary of  
16 Veterans Affairs on veterans disability compensation  
17 and veterans transition benefits under the Noble  
18 Warrior Act.”.

19 (b) REFERRAL.—A resolution described in subsection  
20 (a) that is introduced in the House of Representatives  
21 shall be referred to the Committee on Veterans’ Affairs  
22 of the House of Representatives. A resolution described  
23 in subsection (a) introduced in the Senate shall be referred  
24 to the Committee on Veterans’ Affairs of the Senate.

1       (c) DISCHARGE.—If the committee to which a resolu-  
2 tion described in subsection (a) is referred has not re-  
3 ported such resolution (or an identical resolution) by the  
4 end of the 60-day period beginning on the date on which  
5 the Secretary of Veterans Affairs submits to Congress the  
6 proposal under section 204, such committee shall be, at  
7 the end of such period, discharged from further consider-  
8 ation of such resolution, and such resolution shall be  
9 placed on the appropriate calendar of the House involved.

10       (d) CONSIDERATION.—

11           (1) On or after the third day after the date on  
12 which the committee to which such a resolution is  
13 referred has reported, or has been discharged (under  
14 subsection (c)) from further consideration of, such a  
15 resolution, it is in order (even though a previous mo-  
16 tion to the same effect has been disagreed to) for  
17 any Member of the respective House to move to pro-  
18 ceed to the consideration of the resolution. A Mem-  
19 ber may make the motion only on the day after the  
20 calendar day on which the Member announces to the  
21 House concerned the Member's intention to make  
22 the motion, except that, in the case of the House of  
23 Representatives, the motion may be made without  
24 such prior announcement if the motion is made by  
25 direction of the committee to which the resolution

1 was referred. All points of order against the resolu-  
2 tion (and against consideration of the resolution) are  
3 waived. The motion is highly privileged in the House  
4 of Representatives and is privileged in the Senate  
5 and is not debatable. The motion is not subject to  
6 amendment, or to a motion to postpone, or to a mo-  
7 tion to proceed to the consideration of other busi-  
8 ness. A motion to reconsider the vote by which the  
9 motion is agreed to or disagreed to shall not be in  
10 order. If a motion to proceed to the consideration of  
11 the resolution is agreed to, the respective House  
12 shall immediately proceed to consideration of the  
13 joint resolution without intervening motion, order, or  
14 other business, and the resolution shall remain the  
15 unfinished business of the respective House until  
16 disposed of.

17 (2) Debate on the resolution, and on all debat-  
18 able motions and appeals in connection therewith,  
19 shall be limited to not more than 2 hours, which  
20 shall be divided equally between those favoring and  
21 those opposing the resolution. An amendment to the  
22 resolution is not in order. A motion further to limit  
23 debate is in order and not debatable. A motion to  
24 postpone, or a motion to proceed to the consider-  
25 ation of other business, or a motion to recommit the

1 resolution is not in order. A motion to reconsider the  
2 vote by which the resolution is agreed to or dis-  
3 agreed to is not in order.

4 (3) Immediately following the conclusion of the  
5 debate on a resolution described in subsection (a)  
6 and a single quorum call at the conclusion of the de-  
7 bate if requested in accordance with the rules of the  
8 appropriate House, the vote on final passage of the  
9 resolution shall occur.

10 (4) Appeals from the decisions of the Chair re-  
11 lating to the application of the rules of the Senate  
12 or the House of Representatives, as the case may be,  
13 to the procedure relating to a resolution described in  
14 subsection (a) shall be decided without debate.

15 (e) CONSIDERATION BY OTHER HOUSE.—

16 (1) If, before the passage by one House of a  
17 resolution of that House described in subsection (a),  
18 that House receives from the other House a resolu-  
19 tion described in subsection (a), then the following  
20 procedures shall apply:

21 (A) The resolution of the other House shall  
22 not be referred to a committee and may not be  
23 considered in the House receiving it except in  
24 the case of final passage as provided in sub-  
25 paragraph (B)(ii).

1 (B) With respect to a resolution described  
2 in subsection (a) of the House receiving the res-  
3 olution—

4 (i) the procedure in that House shall  
5 be the same as if no resolution had been  
6 received from the other House; but

7 (ii) the vote on final passage shall be  
8 on the resolution of the other House.

9 (2) Upon disposition of the resolution received  
10 from the other House, it shall no longer be in order  
11 to consider the resolution that originated in the re-  
12 ceiving House.

13 (f) RULES OF THE SENATE AND HOUSE.—This sec-  
14 tion is enacted by Congress—

15 (1) as an exercise of the rulemaking power of  
16 the Senate and House of Representatives, respec-  
17 tively, and as such it is deemed a part of the rules  
18 of each House, respectively, but applicable only with  
19 respect to the procedure to be followed in that  
20 House in the case of a resolution described in sub-  
21 section (a), and it supersedes other rules only to the  
22 extent that it is inconsistent with such rules; and

23 (2) with full recognition of the constitutional  
24 right of either House to change the rules (so far as  
25 relating to the procedure of that House) at any time,

1 in the same manner, and to the same extent as in  
2 the case of any other rule of that House.

3 **SEC. 206. EFFECTIVE DATE OF IMPLEMENTATION OF EN-**  
4 **HANCED DEPARTMENT OF VETERANS AF-**  
5 **FAIRS DISABILITY COMPENSATION SYSTEM.**

6 (a) IN GENERAL.—For purposes of this Act and the  
7 amendments made by this Act, the effective date of the  
8 implementation of the enhanced Department of Veterans  
9 Affairs disability compensation system is the date, as pro-  
10 vided in subsection (b), on which the authority of Congress  
11 under section 205 to disapprove the proposal of the Sec-  
12 retary of Veterans Affairs on veterans disability com-  
13 pensation and veterans transition benefits under section  
14 204 expires, but only if Congress does not so disapprove  
15 the proposal of the Secretary before such date.

16 (b) DISAPPROVAL BY CONGRESS.—

17 (1) IN GENERAL.—The Secretary of Veterans  
18 Affairs shall not implement the enhanced Depart-  
19 ment of Veterans Affairs disability compensation  
20 system if a joint resolution is enacted, in accordance  
21 with section 205, disapproving the proposal of the  
22 Secretary of Veterans Affairs on veterans disability  
23 compensation and veterans transition benefits under  
24 section 204 before the earlier of—



1 (A) the end of the 85-day period beginning  
2 on the date on which the Secretary submits the  
3 proposal to Congress; or

4 (B) the adjournment of Congress sine die  
5 for the session during which the proposal is  
6 submitted.

7 (2) COMPUTATION OF PERIODS.—For purposes  
8 of paragraph (1) and section 205, the days on which  
9 either House of Congress is not in session because  
10 of an adjournment of more than three days to a day  
11 certain shall be excluded in the computation of a pe-  
12 riod.

13 (c) ENHANCED DEPARTMENT OF VETERANS AF-  
14 FAIRS DISABILITY COMPENSATION SYSTEM DEFINED.—  
15 For purposes of this Act and the amendments made by  
16 this Act, the term “enhanced Department of Veterans Af-  
17 fairs disability compensation system” means—

18 (1) the elements of the proposal of the Sec-  
19 retary of Veterans Affairs on veterans disability  
20 compensation and veterans transition benefits under  
21 section 204; and

22 (2) the amendments to section 1155 of title 38,  
23 United States Code, made by section 207(a) of this  
24 Act; and

1 (3) chapter 12 of title 38, United States Code,  
2 as added by section 207(b) of this Act.

3 **SEC. 207. ENHANCED DEPARTMENT OF VETERANS AFFAIRS**  
4 **DISABILITY COMPENSATION SYSTEM.**

5 (a) MODIFICATION OF SCHEDULE OF RATINGS TO  
6 ACCOUNT FOR LOSS OF EARNING CAPACITY AND QUAL-  
7 ITY OF LIFE.—

8 (1) IN GENERAL.—Section 1155 of title 38,  
9 United States Code, is amended to read as follows:

10 **“§ 1155. Schedule for rating disabilities**

11 “(a) IN GENERAL.—The Secretary shall adopt and  
12 apply a schedule of ratings of disability of veterans associ-  
13 ated with specific injuries or combinations of injuries.

14 “(b) SCOPE OF RATINGS.—(1) For veterans for  
15 whom disability compensation is payable under this chap-  
16 ter, the ratings under subsection (a) shall be based, as  
17 far as practicable, upon the average impairments of earn-  
18 ing capacity in civil occupations resulting from the injuries  
19 concerned.

20 “(2) For veterans for whom disability compensation  
21 is payable under chapter 12 of this title, the ratings shall  
22 reflect, as far as practicable, each of the following:

23 “(A) Average loss of earning capacity, such as  
24 inability to work in certain occupations.

1           “(B) Quality of life, such as activities of inde-  
2           pendent living, recreational and community activi-  
3           ties, and personal relationships, including the inabil-  
4           ity to participate in favorite activities, social prob-  
5           lems related to disfigurement or cognitive difficul-  
6           ties, and the need to spend increased amounts of  
7           time performing activities of daily living.

8           “(c) GRADES OF DISABILITY.—(1) For veterans for  
9           whom disability compensation is payable under this chap-  
10          ter, the schedule of ratings shall be constructed so as to  
11          provide ten grades of disability and no more, upon which  
12          payments of compensation shall be based, namely 10 per-  
13          cent, 20 percent, 30 percent, 40 percent, 50 percent, 60  
14          percent, 70 percent, 80 percent, 90 percent, and total, 100  
15          percent.

16          “(2) For veterans for whom disability compensation  
17          is payable under chapter 12 of this title, the schedule of  
18          ratings shall be constructed—

19                 “(A) at the discretion of the Secretary in light  
20                 of the study required by section 201 of the Noble  
21                 Warrior Act, so as to provide such number of grades  
22                 of disability as the Secretary considers appropriate;

23                 “(B) at the discretion of the Secretary in light  
24                 of the study referred to in subparagraph (A), so as  
25                 to provide either—

1                   “(i) the assignment to veterans of separate  
2                   grades of disability reflecting each matter speci-  
3                   fied in subparagraphs (A) and (B) of subsection  
4                   (b)(2); or

5                   “(ii) the assignment to veterans of a single  
6                   grade of disability reflecting both such matters;  
7                   and

8                   “(C) if provided in the schedule at the discre-  
9                   tion of the Secretary in light of the study referred  
10                  to in subparagraph (A), so as to reflect in the grade  
11                  of disability assignable to a veteran for average loss  
12                  of earning capacity the effect of the age of the vet-  
13                  eran on the potential future earnings of the veteran  
14                  at the time of assignment.

15                  “(d) ADJUSTMENT.—The Secretary shall from time  
16                  to time adjust the schedule of ratings in accordance with  
17                  experience.

18                  “(e) PRESERVATION OF RATING.—(1) Except as pro-  
19                  vided in paragraph (2), an adjustment in the schedule of  
20                  ratings under subsection (d) shall not cause a veteran’s  
21                  disability rating in effect on the effective date of the ad-  
22                  justment to be reduced unless an improvement in the vet-  
23                  eran’s disability is shown to have occurred.

1       “(2) An adjustment in the schedule of ratings may  
2 result in a reduction in a veteran’s disability rating as pro-  
3 vided in section 1205 of this title.”.

4           (2) CLERICAL AMENDMENT.—The table of sec-  
5 tions at the beginning of chapter 11 of such title is  
6 amended by striking the item relating to section  
7 1155 and inserting the following new item:

“1155. Schedule for rating disabilities.”.

8           (3) EFFECTIVE DATE.—Except as provided in  
9 paragraph (4), this subsection and the amendments  
10 made by this subsection shall take effect, if at all,  
11 on the effective date of the implementation of the  
12 enhanced Department of Veterans Affairs disability  
13 compensation system as determined in accordance  
14 with section 206.

15           (4) ANTICIPATION OF IMPLEMENTATION.—The  
16 Secretary of Veterans Affairs shall take appropriate  
17 actions to ensure that the amendments made by this  
18 subsection are implementable on the effective date  
19 described in paragraph (3) in the event of the imple-  
20 mentation of the enhanced Department of Veterans  
21 Affairs disability compensation system on that date.

22       (b) DISABILITY COMPENSATION FOR LOSS OF EARN-  
23 ING CAPACITY AND QUALITY OF LIFE AND TRANSITION  
24 PAYMENTS FOR PARTICIPATION IN MEDICAL OR  
25 REHABILITATIONAL REGIMEN.—

1 (1) IN GENERAL.—Part II of title 38, United  
 2 States Code, is amended by inserting after chapter  
 3 11 the following new chapter:

4 **“CHAPTER 12—COMPENSATION AND**  
 5 **TRANSITION PAYMENTS FOR SERVICE-**  
 6 **CONNECTED DISABILITY**

“Sec.

“1201. Compensation for service-connected disability: veterans not rated as service-connected disabled who file claims for compensation on or after implementation of enhanced Department of Veterans Affairs disability compensation system.

“1202. Compensation for service-connected disability: veterans rated as service-connected disabled as of implementation of enhanced Department of Veterans Affairs disability compensation system who file claims on or after implementation.

“1203. Rates of compensation.

“1204. Transition benefits: payments; allowances.

“1205. Periodic review of extent of disability.

“1206. Prohibition on duplication of benefits.

7 **“§ 1201. Compensation for service-connected dis-**  
 8 **ability: veterans not rated as service-con-**  
 9 **nected disabled who file claims for com-**  
 10 **ensation on or after implementation of**  
 11 **enhanced Department of Veterans Affairs**  
 12 **disability compensation system**

13 “(a) IN GENERAL.—In the case of a veteran who has  
 14 not been rated as having a service-connected disability  
 15 under chapter 11 of this title as of the effective date of  
 16 the implementation of the enhanced Department of Vet-  
 17 erans Affairs disability compensation system (as deter-  
 18 mined in accordance with section 206 of the Noble War-  
 19 rior Act) and who files with the Secretary a claim with

1 respect to disability on or after that effective date, for dis-  
2 ability resulting from personal injury suffered or disease  
3 contracted in line of duty, or from aggravation of a pre-  
4 existing injury suffered or disease contracted in line of  
5 duty, in the active military, naval, or air service, the  
6 United States will pay such veteran thus disabled and who  
7 was discharged or released under conditions other than  
8 dishonorable from the period of service in which such in-  
9 jury or disease was incurred, or preexisting injury or dis-  
10 ease was aggravated, compensation as provided in section  
11 1203 of this title, but no compensation shall be paid if  
12 the disability is a result of such veteran's own willful mis-  
13 conduct or abuse of alcohol or drugs.

14       “(b) RATING OF DISABILITY.—The rating of dis-  
15 ability for which compensation is payable under this sec-  
16 tion shall be assigned utilizing the schedule of ratings  
17 under section 1155 of this title that is applicable to vet-  
18 erans for whom disability compensation is payable under  
19 this chapter.

20       “(c) LIMITATIONS.—(1) The payment of compensa-  
21 tion pursuant to this section shall be subject to the provi-  
22 sions of sections 5110 and 5112 of this title.

23       “(2) Compensation shall not be paid under this sec-  
24 tion to a veteran who is retired for disability under sub-  
25 chapter II of chapter 61 of title 10 pursuant to section

1 1206a of that title for any period before the first day fol-  
 2 lowing termination of the veteran's receipt of benefits  
 3 under section 1204 of this title.

4 **“§ 1202. Compensation for service-connected dis-**  
 5 **ability: veterans rated as service-con-**  
 6 **nected disabled as of implementation of**  
 7 **enhanced Department of Veterans Affairs**  
 8 **disability compensation system who file**  
 9 **claims on or after implementation**

10 “(a) IN GENERAL.—In the case of a veteran who is  
 11 rated as having a service-connected disability under chap-  
 12 ter 11 of this title as of the effective date of the implemen-  
 13 tation of the enhanced Department of Veterans Affairs  
 14 disability compensation system (as determined in accord-  
 15 ance with section 206 of the Noble Warrior Act) who files  
 16 with the Secretary a claim with respect to such disability  
 17 or disabilities, or another disability, on or after that date,  
 18 for disability resulting from personal injury suffered or  
 19 disease contracted in line of duty, or from aggravation of  
 20 a preexisting injury suffered or disease contracted in line  
 21 of duty, in the active military, naval, or air service, the  
 22 United States will pay such veteran thus disabled and who  
 23 was discharged or released under conditions other than  
 24 dishonorable from the period of service in which such in-  
 25 jury or disease was incurred, or preexisting injury or dis-



1 ease was aggravated, compensation as provided in section  
 2 1203 of this title, but no compensation shall be paid if  
 3 such disability is a result of such veteran's own willful mis-  
 4 conduct or abuse of alcohol or drugs.

5 “(b) RATING OF DISABILITY.—The rating of dis-  
 6 ability for which compensation is payable under this sec-  
 7 tion shall—

8 “(1) take into account all service-connected dis-  
 9 abilities of the veteran concerned, including any dis-  
 10 ability for which such veteran was rated as having  
 11 a service-connected as described in subsection (a)  
 12 and the disability with respect to which such veteran  
 13 files a claim as described in that subsection; and

14 “(2) be assigned utilizing the schedule of rat-  
 15 ings under section 1155 of this title that is applica-  
 16 ble to veterans for whom disability compensation is  
 17 payable under this chapter.

18 “(c) LIMITATION.—The payment of compensation  
 19 pursuant to this section shall be subject to the provisions  
 20 of sections 5110 and 5112 of this title.

21 **“§ 1203. Rates of compensation**

22 “(a) IN GENERAL.—For purposes of sections 1201  
 23 and 1202 of this title, the rates of compensation payable  
 24 for disabilities shall be the applicable rates specified for  
 25 grade of disability in the proposal of the Secretary of Vet-

1 erans Affairs under section 204(2) of the Noble Warrior  
2 Act.

3 “(b) REDUCTION FOR PERSONS INCARCERATED FOR  
4 CONVICTION OF A FELONY.—The payment of compensa-  
5 tion for disabilities under sections 1201 and 1202 shall  
6 be subject to the provisions of section 5313 of this title.

7 “(c) SOURCE OF FUNDS.—Amounts for the payment  
8 of compensation under this section shall be derived from  
9 amounts available in the Compensation and Pension ac-  
10 count of the Department of Veterans Affairs.

11 **“§ 1204. Transition benefits: payments; allowances**

12 “(a) ELIGIBLE VETERANS.—For purposes of this  
13 section, an eligible veteran is any veteran who is retired  
14 under subchapter II of chapter 61 of title 10 pursuant  
15 to section 1206a of that title.

16 “(b) MONTHLY TRANSITION PAYMENTS.—(1) Sub-  
17 ject to the provisions of this subsection, the Secretary shall  
18 pay to each eligible veteran a monthly transition payment.

19 “(2) A veteran entitled to monthly transition pay-  
20 ments under this subsection shall be paid—

21 “(A) a monthly transition payment in an  
22 amount equal to the amount specified with respect  
23 to the veteran in the proposal of the Secretary of  
24 Veterans Affairs under section 204(3) of the Noble  
25 Warrior Act for each of the first three months be-

1       ginning on the date of the veteran’s retirement as  
2       described in paragraph (1); and

3               “(B) a one-time prorated payment of such  
4       amount for the remaining portion of the month in  
5       which the retirement of the veteran occurred.

6       “(3) No payment shall be made to a veteran under  
7       this subsection for any period for which a rehabilitation  
8       transition allowance is paid the veteran under subsection  
9       (c).

10       “(c) REHABILITATION TRANSITION ALLOWANCE.—

11       (1) Subject to the provisions of this subsection, the Sec-  
12       retary shall pay to each eligible veteran who is partici-  
13       pating in a rehabilitation program under chapter 17 or  
14       31 of this title a monthly rehabilitation transition allow-  
15       ance described in paragraph (3) during the period de-  
16       scribed in paragraph (4).

17       “(2)(A) For purposes of this subsection, a veteran  
18       shall be treated as participating in a rehabilitation pro-  
19       gram under chapter 17 of this title if, as determined by  
20       the Secretary, the veteran is participating in an intensive  
21       treatment program under that chapter for a service-con-  
22       nected disability which program is intended to assist the  
23       veteran in restoring the veteran’s ability to obtain and  
24       maintain substantially gainful employment.

1       “(B) For purposes of this subsection, a veteran shall  
2 be treated as participating in a rehabilitation program  
3 under chapter 31 of this title during any period, as deter-  
4 mined by the Secretary, during which the veteran is eligi-  
5 ble, notwithstanding paragraph (7), for the subsistence al-  
6 lowance authorized by section 3108(a)(1) of this title.

7       “(3)(A) The amount of the monthly rehabilitation  
8 transition allowance payable to a veteran under this sub-  
9 section is the amount equal to the amount specified with  
10 respect to the veteran in the proposal of the Secretary of  
11 Veterans Affairs under section 204(3) of the Noble War-  
12 rior Act.

13       “(B) For any month in which an eligible veteran par-  
14 ticipates in a rehabilitation program described in para-  
15 graph (1) for less than the full month, the amount payable  
16 to the veteran under this paragraph shall be prorated for  
17 the portion of the month in which the veteran so partici-  
18 pates.

19       “(C) In the case of a veteran entitled to assistance  
20 under this subsection who is participating in a rehabilita-  
21 tion program that includes paid training on the job, the  
22 Secretary may reduce the veteran’s rehabilitation transi-  
23 tion allowance under this subsection by one dollar for each  
24 dollar of wages, compensation, or other income paid (di-

1 rectly or indirectly) by the employer to the veteran for  
2 such training.

3 “(4) The period for which a monthly rehabilitation  
4 transition allowance is payable to a veteran under this  
5 subsection is the period specified with respect to the vet-  
6 eran in the proposal of the Secretary of Veterans Affairs  
7 under section 204(3) of the Noble Warrior Act.

8 “(5) A veteran may be paid a rehabilitation transition  
9 allowance under this subsection only if the veteran is com-  
10 plying substantially with the individual rehabilitation or  
11 recovery plan developed by the Secretary for purposes of  
12 the rehabilitation program described in paragraph (1).

13 “(6)(A) Except as provided in subparagraph (B), no  
14 rehabilitation transition allowance may be paid under this  
15 subsection to a veteran who is participating in a vocational  
16 rehabilitation program under chapter 31 of this title while  
17 such veteran is incarcerated in a Federal, State, local, or  
18 other penal institution or correctional facility for convic-  
19 tion of a felony.

20 “(B) Subparagraph (A) shall not apply to a veteran  
21 who is participating in a vocational rehabilitation program  
22 while residing in a halfway house or participating in a  
23 work-release program in connection with the veteran’s  
24 conviction of a felony.

1       “(7) A veteran paid a rehabilitation transition allow-  
2       ance for a month under this subsection may not be paid  
3       the subsistence allowance otherwise authorized for the vet-  
4       eran under section 3108 of this title for that month.

5       “(d) SOURCE OF FUNDS.—Amounts for payments  
6       under this section shall be derived from amounts available  
7       in the Readjustment Benefits account of the Department  
8       of Veterans Affairs.

9       **“§ 1205. Periodic review of extent of disability**

10       “(a) IN GENERAL.—Except as provided under this  
11       section, the Secretary shall—

12               “(1) reevaluate and adjust, if appropriate, the  
13       disability rating of each veteran entitled to com-  
14       pensation under section 1201 or 1202 of this title,  
15       as the Secretary considers appropriate; and

16               “(2) adjust the rate of compensation payable to  
17       such veteran under section 1203 of this title accord-  
18       ing to the new disability rating as adjusted under  
19       paragraph (1) and to any adjustment of the schedule  
20       of ratings under section 1155 of this title applicable  
21       to veterans for whom compensation is payable under  
22       this chapter that has occurred since the preceding  
23       assignment of a disability rating to such veteran.

24       “(b) FREQUENCY OF REEVALUATIONS AND ADJUST-  
25       MENTS.—The Secretary shall carry out the reevaluations

1 and adjustments required by subsection (a) with respect  
2 to a veteran described in that subsection with such fre-  
3 quency as the Secretary considers appropriate. In making  
4 a determination regarding the appropriate frequency of re-  
5 evaluations for a veteran, the Secretary shall be guided  
6 by recommendations made by an examining physician or  
7 other appropriate medical professional who has evaluated  
8 the veteran and by such other factors as the Secretary  
9 considers appropriate.

10 “(c) REEVALUATION AT REQUEST OF VETERAN.—At  
11 the request of a veteran receiving compensation under sec-  
12 tion 1201 or 1202 of this title, the Secretary may—

13 “(1) reevaluate and adjust, if appropriate, the  
14 disability rating of the veteran as the Secretary con-  
15 sidered appropriate; and

16 “(2) adjust the rate of compensation payable to  
17 such veteran under section 1203 of this title accord-  
18 ing to the new disability rating as adjusted under  
19 paragraph (1) and to any adjustment of the schedule  
20 of ratings under section 1155 of this title applicable  
21 to veterans for whom compensation is payable under  
22 this chapter that has occurred since the preceding  
23 assignment of a disability rating to such veteran.

1 **“§ 1206. Prohibition on duplication of benefits**

2 “(a) IN GENERAL.—A veteran entitled to compensa-  
3 tion under section 1201 or 1202 of this title is not entitled  
4 to compensation under chapter 11 of this title.

5 “(b) PRESERVATION OF ENTITLEMENT UNDER  
6 OTHER SYSTEM.—(1)(A) Except as provided in para-  
7 graph (2), any veteran in receipt of compensation under  
8 chapter 11 of this title (other than compensation paid as  
9 a result of a temporary rating of disability) as of the effec-  
10 tive date of the implementation of the enhanced Depart-  
11 ment of Veterans Affairs disability compensation system  
12 (as determined in accordance with section 206 of the  
13 Noble Warrior Act) shall remain entitled to compensation  
14 in accordance with the provisions of chapter 11 of this  
15 title after that date.

16 “(B) For provisions relating to the protection of rat-  
17 ings of disability of veterans covered by subparagraph (A),  
18 see section 110(c) of this title.

19 “(2)(A) The entitlement to compensation of, and  
20 amount of compensation payable to, a veteran described  
21 in paragraph (1) who files a claim for compensation under  
22 this title on or after the effective date of the implementa-  
23 tion of the enhanced Department of Veterans Affairs dis-  
24 ability compensation system shall be determined in accord-  
25 ance with the facts found under the provisions of section



1 1155 of this title and this chapter as such provisions are  
 2 in effect on the date of the filing of the claim.

3 “(B) The objection of a veteran to a proposed reduc-  
 4 tion in rating of service-connected disability or other re-  
 5 sponse of a veteran to a proposed adverse action by the  
 6 Secretary concerning compensation for a service-connected  
 7 disability under chapter 11 of this title shall not be treated  
 8 as a claim for purposes of subparagraph (A).”.

9 (2) CLERICAL AMENDMENTS.—The table of  
 10 chapters at the beginning of title 38, United States  
 11 Code, and the beginning of part II of such title, are  
 12 each amended by inserting after the item related to  
 13 chapter 11 the following new item:

**“12. Compensation and Transition Payments for Service-  
 Connected Disability ..... 1201”.**

14 (3) DISABILITY EVALUATIONS SUBJECT TO RE-  
 15 EVALUATION.—Section 110 of title 38, United  
 16 States Code, is amended—

17 (A) in the first sentence, by striking “A  
 18 rating” and inserting “(a) Except as otherwise  
 19 provided in this title, a rating”;

20 (B) by designating the second sentence as  
 21 subsection (b) and indenting such subsection, as  
 22 so designated, two ems from the left margin;

23 (C) in subsection (b), as so designated, by  
 24 striking “A disability” and inserting “Except as

1 otherwise provided in this title, a disability”;  
2 and

3 (D) by adding at the end the following new  
4 subsection:

5 “(c) The rating of disability assigned to a veteran  
6 who continues to remain entitled to compensation under  
7 chapter 11 of this title after the effective date of the imple-  
8 mentation of the enhanced Department of Veterans Af-  
9 fairs disability compensation system (as determined in ac-  
10 cordance with section 206 of the Noble Warrior Act) by  
11 reason of section 1206(b) of this title may not be reduced  
12 while the veteran continues to remain so entitled, except  
13 upon a showing that such rating was based on fraud.”.

14 (4) MATTERS NOT SUBJECT TO REVIEW.—Not-  
15 withstanding any other provision of law, the fol-  
16 lowing matters shall not be subject to review by any  
17 other official or by any court, whether by an action  
18 in the nature of mandamus or otherwise:

19 (A) Any rate of disability compensation  
20 payable under chapter 12 of title 38, United  
21 States Code (as amended by this subsection),  
22 that is prescribed by the Secretary of Veterans  
23 Affairs for purposes of the proposal under sec-  
24 tion 204(2) .

1 (B) Any amount of monthly transition pay-  
2 ments payable under section 1204(b) of title  
3 38, United States Code (as so amended), that  
4 is specified by the Secretary for purposes of the  
5 proposal under section 204(3).

6 (C) Any amount or duration of rehabilita-  
7 tion transition allowances payable under section  
8 1204(c) of title 38, United States Code (as so  
9 amended), that is specified by the Secretary for  
10 purposes of the proposal under section 204(3).

11 (5) TREATMENT OF VETERANS WITH PENDING  
12 CLAIMS.—In the case of a veteran whose claim for  
13 disability compensation under title 38, United States  
14 Code, is pending an initial decision from the Sec-  
15 retary of Veterans Affairs, or is on appeal (whether  
16 before the Board of Veterans' Appeals, the United  
17 States Court of Appeals for Veterans Claims, or oth-  
18 erwise), as of the effective date of the implementa-  
19 tion of the enhanced Department of Veterans Affairs  
20 disability compensation system (as determined in ac-  
21 cordance with section 206), the Secretary shall treat  
22 such claim as a claim for compensation payable  
23 under chapter 11 of title 38, United States Code.

24 (6) EFFECTIVE DATE.—Except as provided in  
25 paragraph (7), this subsection and the amendments

1       made by this subsection shall take effect, if at all,  
2       on the effective date of the implementation of the  
3       enhanced Department of Veterans Affairs disability  
4       compensation system as determined in accordance  
5       with section 206.

6           (7) ANTICIPATION OF IMPLEMENTATION.—The  
7       Secretary of Veterans Affairs shall take appropriate  
8       actions to ensure that this subsection and the  
9       amendments made by this subsection are  
10      implementable on the effective date described in  
11      paragraph (6) in the event of the implementation of  
12      the enhanced Department of Veterans Affairs dis-  
13      ability compensation system on that date.

14      (c) EXPANDED RETROACTIVITY OF AWARD OF COM-  
15      PENSATION.—

16           (1) IN GENERAL.—Section 5110(g) of title 38,  
17      United States Code, is amended—

18                   (A) by inserting “(1)” after “(g)”; and

19                   (B) by striking the second sentence and in-  
20      serting the following new paragraph:

21      “(2) Subject to the limitation in paragraph (1) and  
22      except as provided in paragraph (3), an award or increase  
23      described in paragraph (1) may not be retroactive for  
24      more than one year from the date of application therefore

1 or the date of administrative determination of entitlement,  
2 whichever is earlier.

3 “(3) Subject to the limitation in paragraph (1), an  
4 award or increase described in that paragraph pursuant  
5 to the amendment to section 1155 of this title or chapter  
6 12 of this title made by section 207 of the Noble Warrior  
7 Act under an application therefor filed during the three-  
8 year period beginning on the effective date of the imple-  
9 mentation of the enhanced Department of Veterans Af-  
10 fairs disability compensation system (as determined in ac-  
11 cordance with section 206 of that Act) may be retroactive  
12 for three years from the date of application or date of ad-  
13 ministrative determination of entitlement, whichever is  
14 earlier.”.

15 (2) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall take effect, if at all, on the  
17 effective date of the implementation of the enhanced  
18 Department of Veterans Affairs disability compensa-  
19 tion system as determined in accordance with section  
20 206.

21 (d) EXPEDITED CLAIMS PROCESSING DURING IM-  
22 PLEMENTATION OF ENHANCED DISABILITY COMPENSA-  
23 TION SYSTEM.—

24 (1) IN GENERAL.—Effective as of the effective  
25 date of the implementation of the enhanced Depart-

1       ment of Veterans Affairs disability compensation  
2       system as determined in accordance with section  
3       206, the Secretary of Veterans Affairs shall imple-  
4       ment appropriate mechanisms to expedite the proc-  
5       essing of claims anticipated to be submitted to the  
6       Secretary under that system during the three-year  
7       period beginning on the effective date of the imple-  
8       mentation of that system.

9               (2) ELEMENTS.—The mechanisms implemented  
10       under this subsection shall include the following:

11               (A) Mechanisms for affording appropriate  
12       priority for processing among the claims sub-  
13       mitted as described in paragraph (1).

14               (B) Mechanisms for ensuring the appro-  
15       priate allocation of personnel and resources of  
16       the Department of Veterans Affairs in order to  
17       facilitate an expedited processing of such  
18       claims.

19               (C) Any other mechanisms that the Sec-  
20       retary considers appropriate to facilitate an ex-  
21       pedited processing of such claims.

22               (3) CONSULTATION IN DEVELOPMENT OF  
23       MECHANISMS.—The Secretary shall consult with ap-  
24       propriate representatives of veterans services organi-

1 zations in developing the mechanisms to be imple-  
2 mented under this subsection.

3 (4) ENHANCED AUTHORITY FOR PROCESSING  
4 CLAIMS.—

5 (A) IN GENERAL.—Subject to subpara-  
6 graph (B), during the five-year period begin-  
7 ning on the effective date of the implementation  
8 of the enhanced Department of Veterans Af-  
9 fairs disability compensation system, the Sec-  
10 retary may waive any provision or limitation of  
11 law applicable to determinations on claims for  
12 compensation for veterans under title 38,  
13 United States Code, if the Secretary determines  
14 that the waiver of such provision or limitation  
15 will further the expedited processing of claims  
16 submitted as described in paragraph (1).

17 (B) NOTICE AND WAIT.—The Secretary  
18 may not waive a provision or limitation of law  
19 under subparagraph (A) until 30 days after the  
20 date on which the Secretary submits to the  
21 Committee Veterans' Affairs of the Senate and  
22 the Committee on Veterans' Affairs of the  
23 House of Representatives a report setting  
24 forth—

1 (i) the provision or limitation of law  
2 to be waived and the duration of the waiv-  
3 er;

4 (ii) a statement of the reasons why  
5 the waiver of the provision or limitation of  
6 law will further the expedited processing of  
7 claims submitted as described in paragraph  
8 (1); and

9 (iii) an estimate of the time antici-  
10 pated to be required to complete the proc-  
11 essing of claims under the waiver.

12 **SEC. 208. SUPPLEMENTAL SURVIVOR BENEFIT FOR SUR-**  
13 **VIVORS OF VETERANS RETIRED FOR DIS-**  
14 **ABILITY AFTER IMPLEMENTATION OF EN-**  
15 **HANCED DEPARTMENT OF VETERANS AF-**  
16 **FAIRS DISABILITY COMPENSATION SYSTEM.**

17 (a) SUPPLEMENTAL SURVIVOR BENEFIT.—

18 (1) IN GENERAL.—Part II of title 38, United  
19 States Code, as amended by section 207(b) of this  
20 Act, is further amended by inserting after chapter  
21 13 the following new chapter:



1 **“CHAPTER 14—SUPPLEMENTAL SURVIVOR**  
 2 **BENEFIT FOR SURVIVORS OF VET-**  
 3 **ERANS RETIRED FOR DISABILITY**  
 4 **AFTER IMPLEMENTATION OF EN-**  
 5 **HANCED DEPARTMENT OF VETERANS**  
 6 **AFFAIRS DISABILITY COMPENSATION**  
 7 **SYSTEM**

“Sec.

“1401. Definition.

“1402. Election of benefit.

“1403. Receipt of benefit.

“1404. Reduction of compensation; termination of reduction.

“1405. Offset for dependency and indemnity compensation.

8 **“§ 1401. Definition**

9 “In this chapter, the term ‘covered veteran’ means  
 10 a veteran retired under subchapter II of chapter 61 of title  
 11 10 pursuant to section 1206a of that title who is entitled  
 12 to compensation for service-connected disability under  
 13 chapter 12 of this title.

14 **“§ 1402. Election of benefit**

15 “(a) IN GENERAL.—A covered veteran may elect in  
 16 accordance with this section to provide a monthly supple-  
 17 mental survivor benefit under this chapter to the veteran’s  
 18 survivors as follows:

19 “(1) The surviving spouse of the veteran.

20 “(2) The surviving children of the veteran.

21 “(b) ELECTION BY VETERANS AT AWARD OF COM-  
 22 PENSATION.—(1) If, at the time of the award of com-

1   pensation for service-connected disability under chapter 12  
2   of this title that qualifies such veteran as a covered vet-  
3   eran, a veteran has a spouse, one or more children, or  
4   both, the veteran shall elect to whom to provide a supple-  
5   mental survivor benefit under this chapter.

6       “(2) A veteran may provide the supplemental survivor  
7   benefit referred to in paragraph (1) pursuant to an elec-  
8   tion under this paragraph—

9           “(A) if the veteran has only a spouse at the  
10   time of the election, to the surviving spouse of the  
11   veteran;

12          “(B) if the veteran has both a spouse and one  
13   or more children at the time of the election—

14           “(i) to the surviving spouse of the veteran;  
15           or

16           “(ii) to the surviving children of the vet-  
17   eran; or

18          “(C) if the veteran is unmarried but has one or  
19   more children at the time of the election, to the sur-  
20   viving children of the veteran.

21       “(3)(A) If a veteran described by paragraph (2)(B)  
22   elects pursuant to paragraph (1) to provide a supple-  
23   mental survivor benefit under this chapter to the surviving  
24   children of the veteran, the Secretary shall notify the vet-  
25   eran’s spouse of the election.

1       “(B) A veteran who makes an election described by  
2 subparagraph (A) may later elect instead to provide a sup-  
3 plemental survivor benefit under this chapter to the sur-  
4 viving spouse of the veteran, but only if the veteran sub-  
5 mits the election under this subparagraph to the Secretary  
6 not later than 30 days after the date of the submittal of  
7 the election described by subparagraph (A) to the Sec-  
8 retary.

9       “(4)(A) Except as provided in subparagraph (B), an  
10 election pursuant to this subsection shall be effective as  
11 of the first day of the first month after the election is  
12 received by the Secretary.

13       “(B) An election pursuant to this subsection that is  
14 described by paragraph (3) shall be effective as of the first  
15 day of the first month that begins more than 30 days after  
16 the election described by paragraph (3)(A) is received by  
17 the Secretary.

18       “(5) Except as provided in subsection (c), a veteran  
19 who does not make the election provided in this subsection  
20 at the time described in paragraph (1) may not provide  
21 a supplemental survivor benefit under this chapter.

22       “(6) Except as provided in subsections (c), (d), and  
23 (e), an election pursuant to this subsection is irrevocable.

24       “(c) ELECTION BY VETERANS NOT MARRIED AT  
25 AWARD OF COMPENSATION WHO LATER MARRY.—(1) A

1 veteran who is unmarried at the time of the award of com-  
2 pensation for service-connected disability under chapter 12  
3 of this title that qualifies the veteran as a covered veteran  
4 and who later marries may elect to provide a supplemental  
5 survivor benefit under this chapter to the spouse of the  
6 veteran by such marriage.

7 “(2) An election pursuant to this subsection shall be  
8 effective only if received by the Secretary not later than  
9 60 days after the date of the marriage concerned.

10 “(3) An election pursuant to this subsection shall be  
11 effective as of the first day of the first month after the  
12 date the election is received by the Secretary.

13 “(4) An election of a veteran pursuant to this sub-  
14 section supersedes the election, if any, of the veteran de-  
15 scribed in subsection (b)(2)(C).

16 “(5) Except as provided in subsection (e), an election  
17 pursuant to this subsection is irrevocable.

18 “(d) ELECTION BY VETERANS MARRIED AT AWARD  
19 OF COMPENSATION WHO LATER REMARRY.—(1) A vet-  
20 eran who is married at the time of the award of compensa-  
21 tion for service-connected disability under chapter 12 of  
22 this title that qualifies the veteran as a covered veteran,  
23 who made an election provided in subsection (b) at that  
24 time, and who later remarries may elect to provide a sup-

1 plemental survivor benefit under this chapter to the spouse  
2 of the veteran by such remarriage.

3 “(2) An election pursuant to this subsection shall be  
4 effective only if received by the Secretary not later than  
5 60 days after the date of the marriage concerned.

6 “(3) An election pursuant to this subsection shall be  
7 effective as of the first day of the first month after the  
8 date the election is received by the Secretary.

9 “(4) An election of a veteran pursuant to this sub-  
10 section supersedes the election of the veteran under sub-  
11 section (b).

12 “(5) Except as provided in subsection (e), an election  
13 pursuant to this subsection is irrevocable.

14 “(e) REVOCATION OF ELECTION OF SPOUSE ELIGI-  
15 BILITY.—(1) A covered veteran who has made an election  
16 under this section to provide a supplemental survivor ben-  
17 efit to the surviving spouse of the veteran may revoke the  
18 election.

19 “(2)(A) Except as provided in subparagraph (B), a  
20 veteran may revoke an election under this subsection only  
21 with the concurrence of the veteran’s spouse.

22 “(B) A veteran may revoke an election under this  
23 subsection without the concurrence of the veteran’s spouse  
24 if the veteran demonstrates to the satisfaction of the Sec-  
25 retary that—

1           “(i) the whereabouts of the spouse cannot be  
2       determined; or

3           “(ii) because of exceptional circumstances, a re-  
4       quirement that the veteran seek the concurrence of  
5       the spouse would be unreasonable.

6       “(3) A revocation of an election under this subsection  
7       is irrevocable.

8       “(f) FORM OF ELECTIONS.—Any election under this  
9       section (including a revocation of election under subsection  
10      (e)) shall be made in writing.

11      “(g) NOTICE REGARDING ELECTIONS.—The Sec-  
12      retary shall take appropriate actions to inform covered  
13      veterans of the elections available to covered veterans  
14      under this subsection, including the procedures and dead-  
15      lines applicable to the making of such elections.

16      **“§ 1403. Receipt of benefit**

17      “(a) IN GENERAL.—(1) Effective as of the first day  
18      of the first month after the month in which a covered vet-  
19      eran who has made an election under section 1402 of this  
20      title dies, a monthly supplemental survivor benefit under  
21      this chapter in an amount equal to 55 percent of the  
22      monthly compensation payable to the veteran under sec-  
23      tion 1203(a) of this title at the time of the veteran’s death  
24      shall be payable to the individual or individuals provided

1 for in such election in force at the time of the veteran's  
2 death.

3 “(2) Any payment of a supplemental survivor benefit  
4 under this section to the surviving children of a veteran  
5 shall be paid to the surviving children in equal shares.

6 “(b) ELIGIBILITY OF SURVIVING SPOUSE.—(1) In  
7 the event of the death of a surviving spouse being paid  
8 a supplemental survivor benefit under subsection (a), the  
9 surviving spouse shall be ineligible for the benefit effective  
10 as of the first day of the first month after the date of  
11 the surviving spouse's death.

12 “(2)(A) In the event a surviving spouse being paid  
13 a supplemental survivor benefit under subsection (a) re-  
14 marries before reaching the age of 55, the surviving  
15 spouse shall be ineligible for the benefit effective as of the  
16 first day of the first month after the date of the surviving  
17 spouse's remarriage.

18 “(B) If the remarriage of a surviving spouse covered  
19 by subparagraph (A) is terminated by the death of the  
20 surviving spouses's spouse, annulment, or divorce, the eli-  
21 gibility of the surviving spouse for the benefit shall recom-  
22 mence effective as of the first day of the first month after  
23 the date on which the remarriage is so terminated.

24 “(3) A surviving spouse who is otherwise eligible for  
25 payment of more than one supplemental survivor benefit

1 under subsection (a) based on marriages to more than one  
2 covered veteran shall elect which marriage shall entitle the  
3 surviving spouse to payment of the benefit for purposes  
4 of this chapter. Any election under this paragraph is irrev-  
5 ocable.

6 “(c) ELIGIBILITY OF SURVIVING CHILDREN.—(1) In  
7 the event the surviving spouse of a veteran becomes ineli-  
8 gible for payment of a supplemental survivor benefit under  
9 subsection (b), the surviving children of the veteran shall  
10 become eligible for the benefit effective as of the first day  
11 of the first month after the date in which the surviving  
12 spouse becomes so ineligible.

13 “(2) In the event the surviving spouse of a veteran  
14 becomes re-eligible for payment of a supplemental survivor  
15 benefit under subsection (b)(2)(B), the surviving children  
16 of the veteran shall be ineligible for the benefit effective  
17 as of the first day of the first month after the date in  
18 which the surviving spouse becomes so re-eligible.

19 “(3) In the event of the death of a surviving child  
20 being paid a supplemental survivor benefit, the surviving  
21 child shall be ineligible for the benefit effective as of the  
22 first day of the first month after the surviving child’s  
23 death, and the payment of the benefit to the remaining  
24 surviving children (if any) of the veteran concerned shall  
25 be adjusted accordingly effective as of that day.



1   **“§ 1404. Reduction of compensation; termination of**  
2                   **reduction**

3           “(a) REDUCTION OF COMPENSATION.—Effective as  
4 of the effective date of an election of a covered veteran  
5 under section 1402 of this title to provide a monthly sup-  
6 plemental survivor benefit under this chapter (as deter-  
7 mined in accordance with applicable provisions of section  
8 1402 of this title), the amount of monthly compensation  
9 for service-connected disability otherwise payable to the  
10 veteran under section 1203(a) of this title shall be reduced  
11 by an amount equal to 6.5 percent of the amount of such  
12 monthly compensation.

13           “(b) TERMINATION OF REDUCTION IN CONNECTION  
14 WITH BENEFIT FOR SURVIVING SPOUSE.—(1) In the case  
15 of a covered veteran who has elected to provide a supple-  
16 mental survivor benefit under this chapter to the surviving  
17 spouse of the veteran, the reduction required by subsection  
18 (a) shall terminate effective as of the first day of the first  
19 month after—

20                   “(A) the death of the spouse;

21                   “(B) the revocation of the eligibility of the  
22 spouse for the benefit under section 1402(e) of this  
23 title; or

24                   “(C) the dissolution of the veteran’s marriage  
25 to the spouse through annulment or divorce.

1       “(2) If after the reduction required by subsection (a)  
2 is terminated under paragraph (1)(C) a veteran elects  
3 under section 1402(d) of this title to provide the benefit  
4 to the surviving spouse of the remarriage covered by such  
5 section 1402(d), the reduction required by subsection (a)  
6 shall recommence effective as of the first day of the first  
7 month after the date of the remarriage, and shall be sub-  
8 ject to subsequent termination in accordance with para-  
9 graph (1).

10       “(c) TERMINATION OF REDUCTION IN CONNECTION  
11 WITH BENEFIT FOR SURVIVING CHILDREN.—In the case  
12 of a covered veteran who has elected to provide a supple-  
13 mental survivor benefit under this chapter to the surviving  
14 children of the veteran, the reduction required by sub-  
15 section (a) shall terminate effective as of the first day of  
16 the first month after—

17               “(1) the date of death of the last child of the  
18 veteran; or

19               “(2) the date on which the last of the children  
20 of the veteran is no longer treatable as a child under  
21 section 101 of this title.

22       “(d) LIMITATION ON NUMBER OF MONTHS SUBJECT  
23 TO REDUCTION.—The total number of months for which  
24 the monthly compensation of a covered veteran is reduced  
25 under subsection (a) may not exceed 360 months.

1   **“§ 1405. Offset for dependency and indemnity com-**  
2                   **pensation**

3           “(a) IN GENERAL.—If an individual eligible for pay-  
4   ment of a monthly supplemental survivor benefit under  
5   this chapter based on the death of a covered veteran is  
6   or becomes entitled to dependency and indemnity com-  
7   pensation under chapter 13 of this title based on the death  
8   of the veteran, the amount of the supplemental survivor  
9   benefit paid the individual under this chapter for a month  
10  is the amount of the benefit otherwise payable to the indi-  
11  vidual under section 1403 of this title for that month  
12  minus the amount of the dependency and indemnity com-  
13  pensation so payable to the individual for that month.

14          “(b) EFFECTIVE DATE.—The reduction of benefit of  
15  an individual required by subsection (a) shall be effective  
16  as of the date of the commencement of the payment of  
17  dependency and indemnity compensation to the individual  
18  under chapter 13 of this title.

19          “(c) REIMBURSEMENT OF REDUCTION IN COM-  
20  PENSATION.—(1) If as a result of subsection (a) no benefit  
21  otherwise payable to an individual under section 1403 of  
22  this title with respect to a covered veteran is payable to  
23  the individual under this chapter, an amount shall be paid  
24  to the individual equal to the aggregate amount of the re-  
25  duction under section 1404(a) of this title of the monthly  
26  compensation otherwise payable to the veteran.

1       “(2) If as a result of subsection (a) the amount of  
2 monthly benefit otherwise payable to an individual under  
3 section 1403 of this title with respect to a covered veteran  
4 is reduced (other than to zero), an amount shall be paid  
5 to the individual equal to—

6               “(A) the aggregate amount of the reduction  
7 under section 1404(a) of this title of the monthly  
8 compensation otherwise payable to the veteran; mul-  
9 tiplied by

10              “(B) a number equal to 1 minus an amount  
11 equal to the fraction—

12                      “(i) whose numerator is the amount of the  
13 monthly benefit payable to the individual under  
14 section 1403 of this title as a result of the re-  
15 duction under subsection (a); and

16                      “(ii) whose denominator is the amount of  
17 the monthly benefit otherwise payable to the in-  
18 dividual under section 1403 of this title without  
19 regard to the reduction under subsection (a).

20       “(3) Any amount payable under this subsection shall  
21 be paid, at the election of the Secretary, in a lump sum  
22 or in such installments as the Secretary shall specify for  
23 purposes of this subsection.”.

24              (2) CLERICAL AMENDMENTS.—The tables of  
25 chapters at the beginning of title 38, United States

1 Code, and the beginning of part II of such title, as  
 2 amended by section 207(b) of this Act, are each fur-  
 3 ther amended by inserting after the item relating to  
 4 chapter 13 the following new item:

**“14. Supplemental survivor benefit for survivors of veterans retired for disability after implementation of enhanced Department of Veterans Affairs disability compensation system ..... 1401”.**

5 (b) EFFECTIVE DATE.—Except as provided in sub-  
 6 section (c), this section and the amendments made by this  
 7 section shall take effect, if at all, on the effective date of  
 8 the implementation of the enhanced Department of Vet-  
 9 erans Affairs disability compensation system as deter-  
 10 mined in accordance with section 206.

11 (c) ANTICIPATION OF IMPLEMENTATION.—The Sec-  
 12 retary of Veterans Affairs shall take appropriate actions  
 13 to ensure that the amendments made by this section are  
 14 implementable on the effective date described in sub-  
 15 section (b) in the event of the implementation of the en-  
 16 hanced Department of Veterans Affairs disability com-  
 17 pensation system on that date.

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