

110TH CONGRESS
2D SESSION

S. 2674

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.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2008

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

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,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “America’s Wounded Warriors Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 implementation of enhanced Department of Veterans Affairs disability 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 injury or illness on active duty.
- Sec. 103. Eligibility for medical and dental care of members of the Armed Forces retired after implementation of enhanced Department of Veterans Affairs disability compensation system.

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 completion 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 Veterans 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 disability after implementation of enhanced Department of Veterans 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 Amer-
 22 ica’s Wounded Warriors 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 America’s Wounded Warriors 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 America’s Wounded
 15 Warriors Act).

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

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

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

1 provisions of this chapter as in effect before the effective
 2 date of the implementation of the enhanced Department
 3 of Veterans Affairs disability compensation system.

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

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

21 “(3) The Secretary of Defense may not recoup or col-
 22 lect from any former member who is retired under this
 23 subchapter pursuant to an election under subsection (a)
 24 any amount of retired pay paid to the former member
 25 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 America’s
8 Wounded Warriors 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-

ber, with retired pay computed under section 1401 of this title (as in effect after the effective date of the implementation of the enhanced Department of Veterans Affairs disability compensation system), if the Secretary concerned also makes the determinations specified in subsection (b) with respect to the member.

“(b) DETERMINATIONS.—The determinations specified in this subsection with respect to a member are determinations by the Secretary concerned as follows:

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

“(A) is of a permanent nature; or

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

“(2) That the injury, illness, or disease rendering the member unfit was incurred or aggravated in the line of duty—

“(A) while the member was entitled to basic pay under section 204 of title 37 or compensation under section 206 of that title;

“(B) while performing active duty but not entitled to basic pay under section 204 of title 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 America’s
 20 Wounded Warriors 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.—Except as provided in subsection
 6 (b), retired pay authorized by this subchapter shall be
 7 treated as retired pay for all purposes under this title.

8 “(b) TREATMENT FOR ELIGIBILITY FOR MEDICAL
 9 AND DENTAL CARE.—(1) Subject to paragraph (2), for
 10 purposes of eligibility for medical and dental care under
 11 chapter 55 of this title, retired pay authorized a member
 12 by this subchapter shall be treated as retired pay only in
 13 accordance with provisions of law enacted by Congress
 14 after receipt by Congress of the report of the Secretary
 15 of Defense on eligibility of members retired under this
 16 subchapter for medical and dental care, as submitted pur-
 17 suant to section 103 of the America's Wounded Warriors
 18 Act.

19 “(2) In the event no provisions of law have been en-
 20 acted by Congress as described by paragraph (1) to specify
 21 the category or categories of members of the armed forces
 22 retired under this subchapter who are to be eligible for
 23 medical and dental care under chapter 55 of this title as
 24 of the effective date of the implementation of the enhanced
 25 Department of Veterans Affairs disability compensation

1 system (as determined in accordance with section 206 of
 2 the America’s Wounded Warriors Act), the category or
 3 categories of members who are to be so eligible for such
 4 medical and dental care after that date shall be such cat-
 5 egory or categories of members as the Secretary of De-
 6 fense considers appropriate in regulations prescribed for
 7 purposes of this subsection.

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

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

16 **“§ 1206g. Determinations of unfitness**

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

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

23 “(2) it is unlikely that through retraining in an-
 24 other occupational specialty or other preparations
 25 the member can be reassigned to other duties the

1 member would be fit to perform and which are con-
 2 sistent with the needs of the armed force concerned.

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

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

20 **“§ 1206h. Definitions**

21 “In this subchapter, the terms ‘disability’ and ‘phys-
 22 ical disability’ include any disability based on a mental dis-
 23 order.

3 (b) CLERICAL AMENDMENTS.—Chapter 61 of such
4 title is further amended—

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

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

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

“Sec.

“1200. Applicability of subchapter: members retired or separated before implementation of enhanced Department of Veterans Affairs disability compensation system; certain members on temporary disability retired list as of implementation of enhanced Department 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.”;

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

“Sec.
“1206a. Applicability of subchapter: members retired on or after implementation
of enhanced Department of Veterans Affairs disability com-
pensation 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.”;

1 and

2 (4) by inserting after the subchapter heading

3 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.”.

4 (c) ELIGIBILITY FOR DISABILITY RETIREMENT FOR

5 PRE-EXISTING CONDITION AFTER EIGHT YEARS OF

6 SERVICE.—Section 1207a(a) of title 10, United States

7 Code, is amended by striking “or 1203” and inserting

8 “1203, 1206b, 1206c, 1206d, or 1206e”.

1 ed by inserting after the matter relating to Formula 2 the
 2 following matter:

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

3 (e) CONFORMING AMENDMENTS RELATING TO RE-
 4 TIRED PAY.—

5 (1) RECOMPUTATION OF RETIRED PAY TO RE-
 6 FLECT LATER ACTIVE DUTY.—Sections 1402(b) and
 7 1402a(b) of title 10, United States Code, are each
 8 amended by inserting “(as in effect before the effec-
 9 tive date of the implementation of the enhanced De-
 10 partment of Veterans Affairs disability compensation
 11 system (as determined in accordance with section
 12 206 of the America’s Wounded Warriors Act) or
 13 subchapter I of chapter 61 of this title (as in effect
 14 after such effective date), as applicable” after
 15 “chapter 61 of this title”.

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

“1201
 1202
 1204

1205
1206b
1206c
1206d
1206e”.

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

4 (A) in subsection (c)—

5 (i) in paragraph (1), by striking
6 “other than section 1204 or 1205 or sec-
7 tion 12731 of this title” and inserting
8 “(other than section 1204, 1205, or 12731
9 of this title, or section 1206b, 1206c,
10 1206d, or 1206e of this title for nonreg-
11 ular service)”;

12 (ii) in paragraph (2), by inserting “,
13 or under section 1206b, 1206c, 1206d, or
14 1206e of this title for regular service,”
15 after “section 1201 or 1202 of this title”;
16 and

17 (iii) in paragraph (3)—

18 (I) by striking “section 1201 or
19 1202” and inserting “section 1201,
20 1202, 1206b, 1206c, 1206d, or
21 1206e”; and

22 (II) by inserting “or under sec-
23 tion 1206b, 1206c, 1206d, or 1206e

1 of this title for nonregular service”
 2 before the period; and

3 (B) in subsection (d)—

4 (i) in paragraph (2), by inserting “, or
 5 under section 1206b, 1206c, 1206d, or
 6 1206e of this title for nonregular service,”
 7 after “section 1204 or 1205 of this title”;
 8 and

9 (ii) in paragraph (3), inserting “, or
 10 under section 1206, 1206c, 1206d, or
 11 1206e of this title for nonregular service,”
 12 after “section 1204 or 1205 of this title”.

13 (4) GRADE ON RETIREMENT FOR PHYSICAL
 14 DISABILITY.—Section 1372 of such title is amend-
 15 ed—

16 (A) by striking “section 1201 or 1204”
 17 and inserting “section 1201, 1204, 1206b,
 18 1206c, or 1206d”; and

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

21 (f) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Except as provided in para-
 23 graph (2), this section and the amendments made by
 24 this section shall take effect, if at all, on the effec-
 25 tive date of the implementation of the enhanced De-

1 partment of Veterans Affairs disability compensation
 2 system as determined in accordance with section
 3 206.

4 (2) ANTICIPATION OF IMPLEMENTATION.—The
 5 Secretary of Defense shall take appropriate actions
 6 to ensure that the amendments made by this section
 7 are implementable on the effective date described in
 8 paragraph (1) in the event of the implementation of
 9 the enhanced Department of Veterans Affairs dis-
 10 ability compensation system on that date.

11 **SEC. 102. CONTINUATION OF RESPITE CARE AND AID AND**
 12 **OTHER EXTENDED CARE BENEFITS FOR**
 13 **MEMBERS OF THE UNIFORMED SERVICES**
 14 **WHO INCUR A SERIOUS INJURY OR ILLNESS**
 15 **ON ACTIVE DUTY.**

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

20 (1) by redesignating subparagraph (B) as sub-
 21 paragraph (C); and

22 (2) by inserting after subparagraph (A) the fol-
 23 lowing new subparagraph (B):

24 “(B) Coverage for a member under this paragraph
 25 may continue for such period after the discharge or sepa-

1 ration of the member from active duty as the Secretary
 2 considers appropriate.”.

3 **SEC. 103. ELIGIBILITY FOR MEDICAL AND DENTAL CARE OF**
 4 **MEMBERS OF THE ARMED FORCES RETIRED**
 5 **AFTER IMPLEMENTATION OF ENHANCED DE-**
 6 **PARTMENT OF VETERANS AFFAIRS DIS-**
 7 **ABILITY COMPENSATION SYSTEM.**

8 (a) STUDY ON ELIGIBILITY.—The Secretary of De-
 9 fense shall conduct a study to determine the members of
 10 the Armed Forces retired under subchapter II of chapter
 11 61 of title 10, United States Code (as amended by section
 12 101 of this Act), who are to be eligible for medical and
 13 dental care under chapter 55 of title 10, United States
 14 Code, after the effective date of the implementation of the
 15 enhanced Department of Veterans Affairs disability com-
 16 pensation system as determined in accordance with section
 17 206.

18 (b) REPORT.—Not later than 270 days after the date
 19 of the enactment of this Act, the Secretary shall submit
 20 to Congress a report on the study conducted under sub-
 21 section (a). The report shall include—

22 (1) the results of the study; and

23 (2) comprehensive and specific recommenda-
 24 tions on the category or categories of members de-
 25 scribed in subsection (a) who are to be eligible for

1 medical and dental care as described in that sub-
2 section.

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

6 **SEC. 201. STUDY ON VETERANS DISABILITY COMPENSA-**
7 **TION.**

8 (a) IN GENERAL.—The Secretary of Veterans Affairs
9 shall conduct a study to determine the amount of com-
10 pensation for service-connected disability to be payable to
11 veterans under chapter 12 of title 38, United States Code
12 (as added by section 207(b) of this Act), for each rating
13 of disability assignable to veterans for service-connected
14 disability.

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

18 (1) The nature of injuries and combination of
19 injuries for which disability compensation is payable
20 under various disability compensation programs of
21 the Federal Government, State governments, and
22 other countries.

23 (2) To the extent applicable, the nature of inju-
24 ries and combination of injuries for which disability

1 compensation is payable under commercial disability
2 insurance.

3 (3) The extent to which quality of life and loss
4 of earnings are independently taken into account in
5 various disability compensation programs of the
6 Federal Government, State governments, and other
7 countries.

8 (4) The effect of an injury or combination of in-
9 juries on—

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

12 (B) a veteran's quality of life, such as ac-
13 tivities of independent living, recreational and
14 community activities, and personal relation-
15 ships, including the inability to participate in
16 favorite activities, social problems related to dis-
17 figurement or cognitive difficulties, and the
18 need to spend increased amounts of time per-
19 forming activities of daily living.

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

24 (6) The extent to which disability compensation
25 for veterans may be used as an incentive to encour-

1 age veterans to seek and undergo appropriate med-
 2 ical treatment and vocational rehabilitation.

3 (c) CONSIDERATIONS IN DETERMINATIONS OF
 4 AMOUNTS OF COMPENSATION.—

5 (1) GENERAL CONSIDERATIONS.—In deter-
 6 mining amounts of compensation under the study re-
 7 quired by subsection (a), the Secretary shall ensure
 8 that the determinations—

9 (A) reflect current concepts of medicine
 10 and disability; and

11 (B) take into account loss of quality of life
 12 and average loss of earning capacity resulting
 13 from specific injuries or combinations of inju-
 14 ries.

15 (2) SPECIFIC CONSIDERATIONS.—In deter-
 16 mining amounts of compensation, the Secretary shall
 17 consider the following:

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

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

23 (C) The appropriate standards for deter-
 24 mining for purposes of that schedule whether

1 an injury or combination of injuries has caused
 2 a loss in a veteran's quality of life.

3 (D) The appropriate level of compensation,
 4 including an age-appropriate level of compensa-
 5 tion at time of initial filing of claims, under
 6 that schedule for loss of earnings.

7 (E) The appropriate standards for pur-
 8 poses of that schedule for determining whether
 9 an injury or combination of injuries causes loss
 10 of earnings.

11 (F) The appropriate relationship between
 12 the receipt of compensation under that sched-
 13 ule, and, where appropriate, assurances by the
 14 veterans concerned of participation in a regi-
 15 men of medical treatment or vocational rehabili-
 16 tation.

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

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

23 (2) may employ consultants.

24 (e) CONSIDERATION OF COMPLETED AND ON-GOING
 25 STUDIES.—In conducting the study required by subsection

1 (a), the Secretary may take into account the findings, de-
2 terminations, and results of any completed or on-going
3 study or report applicable to the matters addressed by the
4 study required by subsection (a) that the Secretary con-
5 siders appropriate.

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

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

20 (B) the reports of any other independent
21 advisory commission that has studied the mat-
22 ters covered by the study as the Secretary con-
23 siders appropriate.

24 (3) The recommendations of the Secretary on
25 the matters considered under subparagraphs (A),

1 (C), (E), and (F) of subsection (c)(2), including a
2 proposal for such legislative or administrative action
3 as the Secretary considers appropriate to implement
4 the recommendations.

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

6 (a) IN GENERAL.—The Secretary of Veterans Affairs
7 shall conduct a study to determine the appropriate
8 amounts and duration of transition payments to be pay-
9 able under chapter 12 of title 38, United States Code (as
10 added by section 207(b) of this Act), including the amount
11 of monthly transition payments to be payable under sec-
12 tion 1204(b) of title 38, United States Code (as so added),
13 and the amount and duration of rehabilitation transition
14 allowances to be payable under section 1204(c) of title 38,
15 United States Code (as so added), to veterans who are
16 participating in a rehabilitation program under chapter 17
17 or 31 of title 38, United States Code.

18 (b) CONSIDERATIONS.—In determining under sub-
19 section (a) the amount and duration of rehabilitation tran-
20 sition allowances to be payable under section 1204(c) of
21 title 38, United States Code (as so added), to veterans
22 who are participating in a rehabilitation program under
23 chapter 17 or 31 of title 38, United States Code, the Sec-
24 retary shall take into account the prohibition in paragraph
25 (7) of such section 1204(c) on the payment of subsistence

1 allowances otherwise authorized by section 3108 of title
2 38, United States Code, to veterans paid rehabilitation
3 transition allowances under such section 1204(c).

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

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

10 (2) may employ consultants.

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

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

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

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

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

7 (B) the reports of such other independent
8 advisory commissions that have studied the
9 matters covered by the study as the Secretary
10 considers appropriate.

11 **SEC. 203. STUDY ON MEASURES TO ASSIST AND ENCOUR-**
12 **AGE VETERANS IN THE COMPLETION OF**
13 **THEIR VOCATIONAL REHABILITATION PLANS.**

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

16 (1) The various factors that may prevent or
17 preclude veterans from completing their vocational
18 rehabilitation plans through the Department of Vet-
19 erans Affairs or otherwise achieving the vocational
20 rehabilitation objectives of such plans.

21 (2) Actions to be taken by the Secretary to as-
22 sist and encourage veterans in overcoming such fac-
23 tors and in otherwise completing their vocational re-
24 habilitation plans or achieving the vocational reha-
25 bilitation objectives of such plans.

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

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

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

9 (3) The results of the studies conducted pursu-
10 ant to sections 201 and 202, including any analysis
11 for purposes of such studies of the extent to which
12 disability compensation may be used as an incentive
13 to encourage veterans to undergo and complete voca-
14 tional rehabilitation.

15 (4) The report of the Veterans' Disability Bene-
16 fits Commission established pursuant to section
17 1501 of the National Defense Authorization Act of
18 2004 (38 U.S.C. 1101 note).

19 (5) The report of the President's Commission
20 on Care for America's Returning Wounded War-
21 riors.

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

24 (1) the extent to which bonus payments or
25 other incentives may be used to encourage veterans

1 to complete their vocational rehabilitation plans or
2 otherwise achieve the vocational rehabilitation objec-
3 tives of such plans; and

4 (2) such other matters as the Secretary con-
5 siderers appropriate.

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

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

12 (2) may employ consultants.

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

19 (1) The findings of the Secretary under the
20 study.

21 (2) Any recommendations that the Secretary
22 considers appropriate for actions to be taken by the
23 Secretary in light of the study, including a proposal
24 for such legislative or administrative action as the

1 Secretary considers appropriate to implement the
2 recommendations.

3 **SEC. 204. PROPOSAL ON VETERANS DISABILITY COMPENSA-**
4 **TION AND VETERANS TRANSITION BENEFITS.**

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

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

14 (2) A statement of the amounts of compensa-
15 tion for service-connected disability to be payable to
16 veterans under chapter 12 of title 38, United States
17 Code (as so added), for each rating of disability as-
18 signable to veterans for service-connected disability.

19 (3) A statement of the amounts and duration of
20 transition benefits to be payable to veterans under
21 chapter 12 of title 38, United States Code (as so
22 added), including the amount of monthly transition
23 payments to be payable under section 1204(b) of
24 title 38, United States Code (as so added), and the
25 amount and duration of rehabilitation transition al-

1 lowances to be payable under section 1204(c) of title
 2 38, United States Code (as so added), to veterans
 3 who are participating in a rehabilitation program
 4 under chapter 17 or 31 of title 38, United States
 5 Code.

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

7 (a) TERMS OF JOINT RESOLUTION.—For purposes of
 8 this section, the term “joint resolution” means only a joint
 9 resolution which is introduced within the 10-day period
 10 beginning on the date on which the Secretary of Veterans
 11 Affairs submits to Congress the proposal of the Secretary
 12 of Veterans Affairs on veterans disability compensation
 13 and veterans transition benefits under section 204, and—

14 (1) which does not have a preamble;

15 (2) the matter after the resolving clause of
 16 which is as follows: “That Congress disapproves the
 17 proposal on veterans disability compensation and
 18 veterans transition benefits under section 204 of the
 19 America’s Wounded Warriors Act as submitted to
 20 Congress on _____”, the blank space being
 21 filled in with the appropriate date; and

22 (3) the title of which is as follows: “Joint reso-
 23 lution disapproving the proposal of the Secretary of
 24 Veterans Affairs on veterans disability compensation

1 and veterans transition benefits under the America's
2 Wounded Warriors Act.''.

3 (b) REFERRAL.—A resolution described in subsection
4 (a) that is introduced in the House of Representatives
5 shall be referred to the Committee on Veterans' Affairs
6 of the House of Representatives. A resolution described
7 in subsection (a) introduced in the Senate shall be referred
8 to the Committee on Veterans' Affairs of the Senate.

9 (c) DISCHARGE.—If the committee to which a resolu-
10 tion described in subsection (a) is referred has not re-
11 ported such resolution (or an identical resolution) by the
12 end of the 60-day period beginning on the date on which
13 the Secretary of Veterans Affairs submits to Congress the
14 proposal under section 204, such committee shall be, at
15 the end of such period, discharged from further consider-
16 ation of such resolution, and such resolution shall be
17 placed on the appropriate calendar of the House involved.

18 (d) CONSIDERATION.—

19 (1) On or after the third day after the date on
20 which the committee to which such a resolution is
21 referred has reported, or has been discharged (under
22 subsection (c)) from further consideration of, such a
23 resolution, it is in order (even though a previous mo-
24 tion to the same effect has been disagreed to) for
25 any Member of the respective House to move to pro-

1 ceed to the consideration of the resolution. A Mem-
2 ber may make the motion only on the day after the
3 calendar day on which the Member announces to the
4 House concerned the Member's intention to make
5 the motion, except that, in the case of the House of
6 Representatives, the motion may be made without
7 such prior announcement if the motion is made by
8 direction of the committee to which the resolution
9 was referred. All points of order against the resolu-
10 tion (and against consideration of the resolution) are
11 waived. The motion is highly privileged in the House
12 of Representatives and is privileged in the Senate
13 and is not debatable. The motion is not subject to
14 amendment, or to a motion to postpone, or to a mo-
15 tion to proceed to the consideration of other busi-
16 ness. A motion to reconsider the vote by which the
17 motion is agreed to or disagreed to shall not be in
18 order. If a motion to proceed to the consideration of
19 the resolution is agreed to, the respective House
20 shall immediately proceed to consideration of the
21 joint resolution without intervening motion, order, or
22 other business, and the resolution shall remain the
23 unfinished business of the respective House until
24 disposed of.

1 (2) Debate on the resolution, and on all debat-
2 able motions and appeals in connection therewith,
3 shall be limited to not more than 2 hours, which
4 shall be divided equally between those favoring and
5 those opposing the resolution. An amendment to the
6 resolution is not in order. A motion further to limit
7 debate is in order and not debatable. A motion to
8 postpone, or a motion to proceed to the consider-
9 ation of other business, or a motion to recommit the
10 resolution is not in order. A motion to reconsider the
11 vote by which the resolution is agreed to or dis-
12 agreed to is not in order.

13 (3) Immediately following the conclusion of the
14 debate on a resolution described in subsection (a)
15 and a single quorum call at the conclusion of the de-
16 bate if requested in accordance with the rules of the
17 appropriate House, the vote on final passage of the
18 resolution shall occur.

19 (4) Appeals from the decisions of the Chair re-
20 lating to the application of the rules of the Senate
21 or the House of Representatives, as the case may be,
22 to the procedure relating to a resolution described in
23 subsection (a) shall be decided without debate.

24 (e) CONSIDERATION BY OTHER HOUSE.—

1 (1) If, before the passage by one House of a
 2 resolution of that House described in subsection (a),
 3 that House receives from the other House a resolu-
 4 tion described in subsection (a), then the following
 5 procedures shall apply:

6 (A) The resolution of the other House shall
 7 not be referred to a committee and may not be
 8 considered in the House receiving it except in
 9 the case of final passage as provided in sub-
 10 paragraph (B)(ii).

11 (B) With respect to a resolution described
 12 in subsection (a) of the House receiving the res-
 13 olution—

14 (i) the procedure in that House shall
 15 be the same as if no resolution had been
 16 received from the other House; but

17 (ii) the vote on final passage shall be
 18 on the resolution of the other House.

19 (2) Upon disposition of the resolution received
 20 from the other House, it shall no longer be in order
 21 to consider the resolution that originated in the re-
 22 ceiving House.

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

1 (1) as an exercise of the rulemaking power of
 2 the Senate and House of Representatives, respec-
 3 tively, and as such it is deemed a part of the rules
 4 of each House, respectively, but applicable only with
 5 respect to the procedure to be followed in that
 6 House in the case of a resolution described in sub-
 7 section (a), and it supersedes other rules only to the
 8 extent that it is inconsistent with such rules; and

9 (2) with full recognition of the constitutional
 10 right of either House to change the rules (so far as
 11 relating to the procedure of that House) at any time,
 12 in the same manner, and to the same extent as in
 13 the case of any other rule of that House.

14 **SEC. 206. EFFECTIVE DATE OF IMPLEMENTATION OF EN-**
 15 **HANCED DEPARTMENT OF VETERANS AF-**
 16 **FAIRS DISABILITY COMPENSATION SYSTEM.**

17 (a) IN GENERAL.—For purposes of this Act and the
 18 amendments made by this Act, the effective date of the
 19 implementation of the enhanced Department of Veterans
 20 Affair disability compensation system is the date, as pro-
 21 vided in subsection (b), on which the authority of Congress
 22 under section 205 to disapprove the proposal of the Sec-
 23 retary of Veterans Affairs on veterans disability com-
 24 pensation and veterans transition benefits under section

1 204 expires, but only if Congress does not so disapprove
 2 the proposal of the Secretary before such date.

3 (b) DISAPPROVAL BY CONGRESS.—

4 (1) IN GENERAL.—The Secretary of Veterans
 5 Affairs shall not implement the enhanced Depart-
 6 ment of Veterans Affairs disability compensation
 7 system if a joint resolution is enacted, in accordance
 8 with section 205, disapproving the proposal of the
 9 Secretary of Veterans Affairs on veterans disability
 10 compensation and veterans transition benefits under
 11 section 204 before the earlier of—

12 (A) the end of the 85-day period beginning
 13 on the date on which the Secretary submits the
 14 proposal to Congress; or

15 (B) the adjournment of Congress sine die
 16 for the session during which the proposal is
 17 submitted.

18 (2) COMPUTATION OF PERIODS.—For purposes
 19 of paragraph (1) and section 205, the days on which
 20 either House of Congress is not in session because
 21 of an adjournment of more than three days to a day
 22 certain shall be excluded in the computation of a pe-
 23 riod.

24 (c) ENHANCED DEPARTMENT OF VETERANS AF-
 25 FAIRS DISABILITY COMPENSATION SYSTEM DEFINED.—

1 For purposes of this Act and the amendments made by
 2 this Act, the term “enhanced Department of Veterans Af-
 3 fairs disability compensation system” means—

4 (1) the elements of the proposal of the Sec-
 5 retary of Veterans Affairs on veterans disability
 6 compensation and veterans transition benefits under
 7 section 204; and

8 (2) the amendments to section 1155 of title 38,
 9 United States Code, made by section 207(a) of this
 10 Act; and

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

13 **SEC. 207. ENHANCED DEPARTMENT OF VETERANS AFFAIRS**
 14 **DISABILITY COMPENSATION SYSTEM.**

15 (a) MODIFICATION OF SCHEDULE OF RATINGS TO
 16 ACCOUNT FOR LOSS OF EARNING CAPACITY AND QUAL-
 17 ITY OF LIFE.—

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

20 **“§ 1155. Schedule for rating disabilities**

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

24 “(b) SCOPE OF RATINGS.—(1) For veterans for
 25 whom disability compensation is payable under this chap-

1 ter, the ratings under subsection (a) shall be based, as
2 far as practicable, upon the average impairments of earn-
3 ing capacity in civil occupations resulting from the injuries
4 concerned.

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

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

10 “(B) Quality of life, such as activities of inde-
11 pendent living, recreational and community activi-
12 ties, and personal relationships, including the inabil-
13 ity to participate in favorite activities, social prob-
14 lems related to disfigurement or cognitive difficul-
15 ties, and the need to spend increased amounts of
16 time performing activities of daily living.

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

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

4 “(A) at the discretion of the Secretary in light
5 of the study required by section 201 of the Amer-
6 ica’s Wounded Warriors Act, so as to provide such
7 number of grades of disability as the Secretary con-
8 sider appropriate;

9 “(B) at the discretion of the Secretary in light
10 of the study referred to in subparagraph (A), so as
11 to provide either—

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

16 “(ii) the assignment to veterans of a single
17 grade of disability reflecting both such matters;
18 and

19 “(C) if provided in the schedule at the discre-
20 tion of the Secretary in light of the study referred
21 to in subparagraph (A), so as to reflect in the grade
22 of disability assignable to a veteran for average loss
23 of earning capacity the effect of the age of the vet-
24 eran on the potential future earnings of the veteran
25 at the time of assignment.

1 “(d) ADJUSTMENT.—The Secretary shall from time
2 to time adjust the schedule of ratings in accordance with
3 experience.

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

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

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 11 of such title is
15 amended by striking the item relating to section
16 1155 and inserting the following new item:

“1155. Schedule for rating disabilities.”.

17 (3) EFFECTIVE DATE.—Except as provided in
18 paragraph (4), this subsection and the amendments
19 made by this subsection shall take effect, if at all,
20 on the effective date of the implementation of the
21 enhanced Department of Veterans Affairs disability
22 compensation system as determined in accordance
23 with section 206.

24 (4) ANTICIPATION OF IMPLEMENTATION.—The
25 Secretary of Veterans Affairs shall take appropriate

1 actions to ensure that the amendments made by this
 2 subsection are implementable on the effective date
 3 described in paragraph (3) in the event of the imple-
 4 mentation of the enhanced Department of Veterans
 5 Affairs disability compensation system on that date.

6 (b) DISABILITY COMPENSATION FOR LOSS OF EARN-
 7 ING CAPACITY AND QUALITY OF LIFE AND TRANSITION
 8 PAYMENTS FOR PARTICIPATION IN MEDICAL OR
 9 REHABILITATIONAL REGIMEN.—

10 (1) IN GENERAL.—Part II of title 38, United
 11 States Code, is amended by inserting after chapter
 12 11 the following new chapter:

13 **“CHAPTER 12—COMPENSATION AND**
 14 **TRANSITION PAYMENTS FOR SERVICE-**
 15 **CONNECTED DISABILITY**

“Sec.

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

“1202. Compensation for service-connected disability: veterans rated as service-
 connected disabled as of implementation of enhanced Depart-
 ment 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.

1 **“§ 1201. Compensation for service-connected dis-**
2 **ability: veterans not rated as service-con-**
3 **ected disabled who file claims for com-**
4 **ensation on or after implementation of**
5 **enhanced Department of Veterans Affairs**
6 **disability compensation system**

7 “(a) IN GENERAL.—In the case of a veteran who has
8 not been rated as having a service-connected disability
9 under chapter 11 of this title as of the effective date of
10 the implementation of the enhanced Department of Vet-
11 erans Affairs disability compensation system (as deter-
12 mined in accordance with section 206 of the America’s
13 Wounded Warriors Act) and who files with the Secretary
14 a claim with respect to disability on or after that effective
15 date, for disability resulting from personal injury suffered
16 or disease contracted in line of duty, or from aggravation
17 of a preexisting injury suffered or disease contracted in
18 line of duty, in the active military, naval, or air service,
19 the United States will pay such veteran thus disabled and
20 who was discharged or released under conditions other
21 than dishonorable from the period of service in which such
22 injury or disease was incurred, or preexisting injury or dis-
23 ease was aggravated, compensation as provided in section
24 1203 of this title, but no compensation shall be paid if
25 the disability is a result of such veteran’s own willful mis-
26 conduct or abuse of alcohol or drugs.

1 “(b) RATING OF DISABILITY.—The rating of dis-
 2 ability for which compensation is payable under this sec-
 3 tion shall be assigned utilizing the schedule of ratings
 4 under section 1155 of this title that is applicable to vet-
 5 erans for whom disability compensation is payable under
 6 this chapter.

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

10 “(2) Compensation shall not be paid under this sec-
 11 tion to a veteran who is retired for disability under sub-
 12 chapter II of chapter 61 of title 10 pursuant to section
 13 1206a of that title for any period before the first day fol-
 14 lowing termination of the veteran’s receipt of benefits
 15 under section 1204 of this title.

16 **“§ 1202. Compensation for service-connected dis-**
 17 **ability: veterans rated as service-con-**
 18 **nected disabled as of implementation of**
 19 **enhanced Department of Veterans Affairs**
 20 **disability compensation system who file**
 21 **claims on or after implementation**

22 “(a) IN GENERAL.—In the case of a veteran who is
 23 rated as having a service-connected disability under chap-
 24 ter 11 of this title as of the effective date of the implemen-
 25 tation of the enhanced Department of Veterans Affairs

1 disability compensation system (as determined in accord-
2 ance with section 206 of the America's Wounded Warriors
3 Act) who files with the Secretary a claim with respect to
4 such disability or disabilities, or another disability, on or
5 after that date, for disability resulting from personal in-
6 jury suffered or disease contracted in line of duty, or from
7 aggravation of a preexisting injury suffered or disease con-
8 tracted in line of duty, in the active military, naval, or
9 air service, the United States will pay such veteran thus
10 disabled and who was discharged or released under condi-
11 tions other than dishonorable from the period of service
12 in which such injury or disease was incurred, or pre-
13 existing injury or disease was aggravated, compensation
14 as provided in section 1203 of this title, but no compensa-
15 tion shall be paid if such disability is a result of such vet-
16 eran's own willful misconduct or abuse of alcohol or drugs.

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

20 “(1) take into account all service-connected dis-
21 abilities of the veteran concerned, including any dis-
22 ability for which such veteran was rated as having
23 a service-connected as described in subsection (a)
24 and the disability with respect to which such veteran
25 files a claim as described in that subsection; and

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

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

8 **“§ 1203. Rates of compensation**

9 “(a) IN GENERAL.—For purposes of sections 1201
 10 and 1202 of this title, the rates of compensation payable
 11 for disabilities shall be the applicable rates specified for
 12 grade of disability in the proposal of the Secretary of Vet-
 13 erans Affairs under section 204(2) of the America’s
 14 Wounded Warriors Act.

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

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

23 **“§ 1204. Transition benefits: payments; allowances**

24 “(a) ELIGIBLE VETERANS.—For purposes of this
 25 section, an eligible veteran is any veteran who is retired

1 under subchapter II of chapter 61 of title 10 pursuant
2 to section 1206a of that title.

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

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

8 “(A) a monthly transition payment in an
9 amount equal to the amount specified with respect
10 to the veteran in the proposal of the Secretary of
11 Veterans Affairs under section 204(3) of the Amer-
12 ica’s Wounded Warriors Act for each of the first
13 three months beginning on the date of the veteran’s
14 retirement as described in paragraph (1); and

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

18 “(3) No payment shall be made to a veteran under
19 this subsection for any period for which a rehabilitation
20 transition allowance is paid the veteran under subsection
21 (c).

22 “(c) REHABILITATION TRANSITION ALLOWANCE.—
23 (1) Subject to the provisions of this subsection, the Sec-
24 retary shall pay to each eligible veteran who is partici-
25 pating in a rehabilitation program under chapter 17 or

1 31 of this title a monthly rehabilitation transition allow-
2 ance described in paragraph (3) during the period de-
3 scribed in paragraph (4).

4 “(2)(A) For purposes of this subsection, a veteran
5 shall be treated as participating in a rehabilitation pro-
6 gram under chapter 17 of this title if, as determined by
7 the Secretary, the veteran is participating in an intensive
8 treatment program under that chapter for a service-con-
9 nected disability which program is intended to assist the
10 veteran in restoring the veteran’s ability to obtain and
11 maintain substantially gainful employment.

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

18 “(3)(A) The amount of the monthly rehabilitation
19 transition allowance payable to a veteran under this sub-
20 section is the amount equal to the amount specified with
21 respect to the veteran in the proposal of the Secretary of
22 Veterans Affairs under section 204(3) of the America’s
23 Wounded Warriors Act.

24 “(B) For any month in which an eligible veteran par-
25 ticipates in a rehabilitation program described in para-

1 graph (1) for less than the full month, the amount payable
2 to the veteran under this paragraph shall be prorated for
3 the portion of the month in which the veteran so partici-
4 pates.

5 “(C) In the case of a veteran entitled to assistance
6 under this subsection who is participating in a rehabilita-
7 tion program that includes paid training on the job, the
8 Secretary may reduce the veteran’s rehabilitation transi-
9 tion allowance under this subsection by one dollar for each
10 dollar of wages, compensation, or other income paid (di-
11 rectly or indirectly) by the employer to the veteran for
12 such training.

13 “(4) The period for which a monthly rehabilitation
14 transition allowance is payable to a veteran under this
15 subsection is the period specified with respect to the vet-
16 eran in the proposal of the Secretary of Veterans Affairs
17 under section 204(3) of the America’s Wounded Warriors
18 Act.

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

24 “(6)(A) Except as provided in subparagraph (B), no
25 rehabilitation transition allowance may be paid under this

1 subsection to a veteran who is participating in a vocational
 2 rehabilitation program under chapter 31 of this title while
 3 such veteran is incarcerated in a Federal, State, local, or
 4 other penal institution or correctional facility for convic-
 5 tion of a felony.

6 “(B) Subparagraph (A) shall not apply to a veteran
 7 who is participating in a vocational rehabilitation program
 8 while residing in a halfway house or participating in a
 9 work-release program in connection with the veteran’s
 10 conviction of a felony.

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

15 “(d) SOURCE OF FUNDS.—Amounts for payments
 16 under this section shall be derived from amounts available
 17 in the Readjustment Benefits account of the Department
 18 of Veterans Affairs.

19 **“§ 1205. Periodic review of extent of disability**

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

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

1 “(2) adjust the rate of compensation payable to
2 such veteran under section 1203 of this title accord-
3 ing to the new disability rating as adjusted under
4 paragraph (1) and to any adjustment of the schedule
5 of ratings under section 1155 of this title applicable
6 to veterans for whom compensation is payable under
7 this chapter that has occurred since the preceding
8 assignment of a disability rating to such veteran.

9 “(b) FREQUENCY OF REEVALUATIONS AND ADJUST-
10 MENTS.—The Secretary shall carry out the reevaluations
11 and adjustments required by subsection (a) with respect
12 to a veteran described in that subsection with such fre-
13 quency as the Secretary considers appropriate. In making
14 a determination regarding the appropriate frequency of re-
15 evaluations for a veteran, the Secretary shall be guided
16 by recommendations made by an examining physician or
17 other appropriate medical professional who has evaluated
18 the veteran and by such other factors as the Secretary
19 considers appropriate.

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

23 “(1) reevaluate and adjust, if appropriate, the
24 disability rating of the veteran as the Secretary con-
25 siders appropriate; and

1 “(2) adjust the rate of compensation payable to
 2 such veteran under section 1203 of this title accord-
 3 ing to the new disability rating as adjusted under
 4 paragraph (1) and to any adjustment of the schedule
 5 of ratings under section 1155 of this title applicable
 6 to veterans for whom compensation is payable under
 7 this chapter that has occurred since the preceding
 8 assignment of a disability rating to such veteran.

9 **“§ 1206. Prohibition on duplication of benefits**

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

13 “(b) PRESERVATION OF ENTITLEMENT UNDER
 14 OTHER SYSTEM.—(1)(A) Except as provided in para-
 15 graph (2), any veteran in receipt of compensation under
 16 chapter 11 of this title (other than compensation paid as
 17 a result of a temporary rating of disability) as of the effec-
 18 tive date of the implementation of the enhanced Depart-
 19 ment of Veterans Affairs disability compensation system
 20 (as determined in accordance with section 206 of the
 21 America’s Wounded Warriors Act) shall remain entitled
 22 to compensation in accordance with the provisions of chap-
 23 ter 11 of this title after that date.

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

4 “(2)(A) The entitlement to compensation of, and
 5 amount of compensation payable to, a veteran described
 6 in paragraph (1) who files a claim for compensation under
 7 this title on or after the effective date of the implementa-
 8 tion of the enhanced Department of Veterans Affairs dis-
 9 ability compensation system shall be determined in accord-
 10 ance with the facts found under the provisions of section
 11 1155 of this title and this chapter as such provisions are
 12 in effect on the date of the filing of the claim.

13 “(B) The objection of a veteran to a proposed reduc-
 14 tion in rating of service-connected disability or other re-
 15 sponse of a veteran to a proposed adverse action by the
 16 Secretary concerning compensation for a service-connected
 17 disability under chapter 11 of this title shall not be treated
 18 as a claim for purposes of subparagraph (A).”.

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

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

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

4 (A) in the first sentence, by striking “A
5 rating” and inserting “(a) Except as otherwise
6 provided in this title, a rating”;

7 (B) by designating the second sentence as
8 subsection (b) and indenting such subsection, as
9 so designated, two ems from the left margin;

10 (C) in subsection (b), as so designated, by
11 striking “A disability” and inserting “Except as
12 otherwise provided in this title, a disability”;
13 and

14 (D) by adding at the end the following new
15 subsection:

16 “(c) The rating of disability assigned to a veteran
17 who continues to remain entitled to compensation under
18 chapter 11 of this title after the effective date of the imple-
19 mentation of the enhanced Department of Veterans Af-
20 fairs disability compensation system (as determined in ac-
21 cordance with section 206 of the America’s Wounded War-
22 riors Act) by reason of section 1206(b) of this title may
23 not be reduced while the veteran continues to remain so
24 entitled, except upon a showing that such rating was based
25 on fraud.”.

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

6 (A) Any rate of disability compensation
7 payable under chapter 12 of title 38, United
8 States Code (as amended by this subsection),
9 that is prescribed by the Secretary of Veterans
10 Affairs for purposes of the proposal under sec-
11 tion 204(2) .

12 (B) Any amount of monthly transition pay-
13 ments payable under section 1204(b) of title
14 38, United States Code (as so amended), that
15 is specified by the Secretary for purposes of the
16 proposal under section 204(3).

17 (C) Any amount or duration of rehabilita-
18 tion transition allowances payable under section
19 1204(c) of title 38, United States Code (as so
20 amended), that is specified by the Secretary for
21 purposes of the proposal under section 204(3).

22 (5) TREATMENT OF VETERANS WITH PENDING
23 CLAIMS.—In the case of a veteran whose claim for
24 disability compensation under title 38, United States
25 Code, is pending an initial decision from the Sec-

1 retary of Veterans Affairs, or is on appeal (whether
2 before the Board of Veterans' Appeals, the United
3 States Court of Appeals for Veterans Claims, or oth-
4 erwise), as of the effective date of the implementa-
5 tion of the enhanced Department of Veterans Affairs
6 disability compensation system (as determined in ac-
7 cordance with section 206), the Secretary shall treat
8 such claim as a claim for compensation payable
9 under chapter 11 of title 38, United States Code.

10 (6) EFFECTIVE DATE.—Except as provided in
11 paragraph (7), this subsection and the amendments
12 made by this subsection shall take effect, if at all,
13 on the effective date of the implementation of the
14 enhanced Department of Veterans Affairs disability
15 compensation system as determined in accordance
16 with section 206.

17 (7) ANTICIPATION OF IMPLEMENTATION.—The
18 Secretary of Veterans Affairs shall take appropriate
19 actions to ensure that this subsection and the
20 amendments made by this subsection are
21 implementable on the effective date described in
22 paragraph (6) in the event of the implementation of
23 the enhanced Department of Veterans Affairs dis-
24 ability compensation system on that date.

1 (c) EXPANDED RETROACTIVITY OF AWARD OF COM-
2 PENSATION.—

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

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

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

8 “(2) Subject to the limitation in paragraph (1) and
9 except as provided in paragraph (3), an award or increase
10 described in paragraph (1) may not be retroactive for
11 more than one year from the date of application therefore
12 or the date of administrative determination of entitlement,
13 whichever is earlier.

14 “(3) Subject to the limitation in paragraph (1), an
15 award or increase described in that paragraph pursuant
16 to the amendment to section 1155 of this title or chapter
17 12 of this title made by section 207 of the America’s
18 Wounded Warriors Act under an application therefor filed
19 during the three-year period beginning on the effective
20 date of the implementation of the enhanced Department
21 of Veterans Affairs disability compensation system (as de-
22 termined in accordance with section 206 of that Act) may
23 be retroactive for three years from the date of application
24 or date of administrative determination of entitlement,
25 whichever is earlier.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect, if at all, on the
3 effective date of the implementation of the enhanced
4 Department of Veterans Affairs disability compensa-
5 tion system as determined in accordance with section
6 206.

7 (d) EXPEDITED CLAIMS PROCESSING DURING IM-
8 PLEMENTATION OF ENHANCED DISABILITY COMPENSA-
9 TION SYSTEM.—

10 (1) IN GENERAL.—Effective as of the effective
11 date of the implementation of the enhanced Depart-
12 ment of Veterans Affairs disability compensation
13 system as determined in accordance with section
14 206, the Secretary of Veterans Affairs shall imple-
15 ment appropriate mechanisms to expedite the proc-
16 essing of claims anticipated to be submitted to the
17 Secretary under that system during the three-year
18 period beginning on the effective date of the imple-
19 mentation of that system.

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

22 (A) Mechanisms for affording appropriate
23 priority for processing among the claims sub-
24 mitted as described in paragraph (1).

1 (B) Mechanisms for ensuring the appro-
2 priate allocation of personnel and resources of
3 the Department of Veterans Affairs in order to
4 facilitate an expedited processing of such
5 claims.

6 (C) Any other mechanisms that the Sec-
7 retary considers appropriate to facilitate an ex-
8 pedited processing of such claims.

9 (3) CONSULTATION IN DEVELOPMENT OF
10 MECHANISMS.—The Secretary shall consult with ap-
11 propriate representatives of veterans services organi-
12 zations in developing the mechanisms to be imple-
13 mented under this subsection.

14 (4) ENHANCED AUTHORITY FOR PROCESSING
15 CLAIMS.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), during the five-year period begin-
18 ning on the effective date of the implementation
19 of the enhanced Department of Veterans Af-
20 fairs disability compensation system, the Sec-
21 retary may waive any provision or limitation of
22 law applicable to determinations on claims for
23 compensation for veterans under title 38,
24 United States Code, if the Secretary determines
25 that the waiver of such provision or limitation

1 will further the expedited processing of claims
2 submitted as described in paragraph (1).

3 (B) NOTICE AND WAIT.—The Secretary
4 may not waive a provision or limitation of law
5 under subparagraph (A) until 30 days after the
6 date on which the Secretary submits to the
7 Committee Veterans’ Affairs of the Senate and
8 the Committee on Veterans’ Affairs of the
9 House of Representatives a report setting
10 forth—

11 (i) the provision or limitation of law
12 to be waived and the duration of the waiver;
13

14 (ii) a statement of the reasons why
15 the waiver of the provision or limitation of
16 law will further the expedited processing of
17 claims submitted as described in paragraph
18 (1); and

19 (iii) an estimate of the time anticipated to be required to complete the processing of claims under the waiver.
20
21

1 **SEC. 208. SUPPLEMENTAL SURVIVOR BENEFIT FOR SUR-**
 2 **VIVORS OF VETERANS RETIRED FOR DIS-**
 3 **ABILITY AFTER IMPLEMENTATION OF EN-**
 4 **HANCED DEPARTMENT OF VETERANS AF-**
 5 **FAIRS DISABILITY COMPENSATION SYSTEM.**

6 (a) SUPPLEMENTAL SURVIVOR BENEFIT.—

7 (1) IN GENERAL.—Part II of title 38, United
 8 States Code, as amended by section 207(b) of this
 9 Act, is further amended by inserting after chapter
 10 13 the following new chapter:

11 **“CHAPTER 14—SUPPLEMENTAL SURVIVOR**
 12 **BENEFIT FOR SURVIVORS OF VET-**
 13 **ERANS RETIRED FOR DISABILITY**
 14 **AFTER IMPLEMENTATION OF EN-**
 15 **HANCED DEPARTMENT OF VETERANS**
 16 **AFFAIRS DISABILITY COMPENSATION**
 17 **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.

18 **“§ 1401. Definition**

19 “In this chapter, the term ‘covered veteran’ means
 20 a veteran retired under subchapter II of chapter 61 of title
 21 10 pursuant to section 1206a of that title who is entitled

1 to compensation for service-connected disability under
2 chapter 12 of this title.

3 **“§ 1402. Election of benefit**

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

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

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

10 “(b) ELECTION BY VETERANS AT AWARD OF COM-
11 PENSATION.—(1) If, at the time of the award of com-
12 pensation for service-connected disability under chapter 12
13 of this title that qualifies such veteran as a covered vet-
14 eran, a veteran has a spouse, one or more children, or
15 both, the veteran shall elect to whom to provide a supple-
16 mental survivor benefit under this chapter.

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

20 “(A) if the veteran has only a spouse at the
21 time of the election, to the surviving spouse of the
22 veteran;

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

1 “(i) to the surviving spouse of the veteran;

2 or

3 “(ii) to the surviving children of the vet-

4 eran; or

5 “(C) if the veteran is unmarried but has one or

6 more children at the time of the election, to the sur-

7 viving children of the veteran.

8 “(3)(A) If a veteran described by paragraph (2)(B)

9 elects pursuant to paragraph (1) to provide a supple-

10 mental survivor benefit under this chapter to the surviving

11 children of the veteran, the Secretary shall notify the vet-

12 eran’s spouse of the election.

13 “(B) A veteran who makes an election described by

14 subparagraph (A) may later elect instead to provide a sup-

15 plemental survivor benefit under this chapter to the sur-

16 viving spouse of the veteran, but only if the veteran sub-

17 mits the election under this subparagraph to the Secretary

18 not later than 30 days after the date of the submittal of

19 the election described by subparagraph (A) to the Sec-

20 retary.

21 “(4)(A) Except as provided in subparagraph (B), an

22 election pursuant to this subsection shall be effective as

23 of the first day of the first month after the election is

24 received by the Secretary.

1 “(B) An election pursuant to this subsection that is
2 described by paragraph (3) shall be effective as of the first
3 day of the first month that begins more than 30 days after
4 the election described by paragraph (3)(A) is received by
5 the Secretary.

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

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

12 “(c) ELECTION BY VETERANS NOT MARRIED AT
13 AWARD OF COMPENSATION WHO LATER MARRY.—(1) A
14 veteran who is unmarried at the time of the award of com-
15 pensation for service-connected disability under chapter 12
16 of this title that qualifies the veteran as a covered veteran
17 and who later marries may elect to provide a supplemental
18 survivor benefit under this chapter to the spouse of the
19 veteran by such marriage.

20 “(2) An election pursuant to this subsection shall be
21 effective only if received by the Secretary not later than
22 60 days after the date of the marriage concerned.

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

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

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

6 “(d) ELECTION BY VETERANS MARRIED AT AWARD
7 OF COMPENSATION WHO LATER REMARRY.—(1) A vet-
8 eran who is married at the time of the award of compensa-
9 tion for service-connected disability under chapter 12 of
10 this title that qualifies the veteran as a covered veteran,
11 who made an election provided in subsection (b) at that
12 time, and who later remarries may elect to provide a sup-
13 plemental survivor benefit under this chapter to the spouse
14 of the veteran by such remarriage.

15 “(2) An election pursuant to this subsection shall be
16 effective only if received by the Secretary not later than
17 60 days after the date of the marriage concerned.

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

21 “(4) An election of a veteran pursuant to this sub-
22 section supersedes the election of the veteran under sub-
23 section (b).

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

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

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

9 “(B) A veteran may revoke an election under this
10 subsection without the concurrence of the veteran’s spouse
11 if the veteran demonstrates to the satisfaction of the Sec-
12 retary that—

13 “(i) the whereabouts of the spouse cannot be
14 determined; or

15 “(ii) because of exceptional circumstances, a re-
16 quirement that the veteran seek the concurrence of
17 the spouse would be unreasonable.

18 “(3) A revocation of an election under this subsection
19 is irrevocable.

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

23 “(g) NOTICE REGARDING ELECTIONS.—The Sec-
24 retary shall take appropriate actions to inform covered
25 veterans of the elections available to covered veterans

1 under this subsection, including the procedures and dead-
 2 lines applicable to the making of such elections.

3 **“§ 1403. Receipt of benefit**

4 “(a) IN GENERAL.—(1) Effective as of the first day
 5 of the first month after the month in which a covered vet-
 6 eran who has made an election under section 1402 of this
 7 title dies, a monthly supplemental survivor benefit under
 8 this chapter in an amount equal to 55 percent of the
 9 monthly compensation payable to the veteran under sec-
 10 tion 1203(a) of this title at the time of the veteran’s death
 11 shall be payable to the individual or individuals provided
 12 for in such election in force at the time of the veteran’s
 13 death.

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

17 “(b) ELIGIBILITY OF SURVIVING SPOUSE.—(1) In
 18 the event of the death of a surviving spouse being paid
 19 a supplemental survivor benefit under subsection (a), the
 20 surviving spouse shall be ineligible for the benefit effective
 21 as of the first day of the first month after the date of
 22 the surviving spouse’s death.

23 “(2)(A) In the event a surviving spouse being paid
 24 a supplemental survivor benefit under subsection (a) re-
 25 marries before reaching the age of 55, the surviving

1 spouse shall be ineligible for the benefit effective as of the
2 first day of the first month after the date of the surviving
3 spouse's remarriage.

4 “(B) If the remarriage of a surviving spouse covered
5 by subparagraph (A) is terminated by the death of the
6 surviving spouses's spouse, annulment, or divorce, the eli-
7 gibility of the surviving spouse for the benefit shall recom-
8 mence effective as of the first day of the first month after
9 the date on which the remarriage is so terminated.

10 “(3) A surviving spouse who is otherwise eligible for
11 payment of more than one supplemental survivor benefit
12 under subsection (a) based on marriages to more than one
13 covered veteran shall elect which marriage shall entitle the
14 surviving spouse to payment of the benefit for purposes
15 of this chapter. Any election under this paragraph is irrev-
16 ocable.

17 “(c) ELIGIBILITY OF SURVIVING CHILDREN.—(1) In
18 the event the surviving spouse of a veteran becomes ineli-
19 gible for payment of a supplemental survivor benefit under
20 subsection (b), the surviving children of the veteran shall
21 become eligible for the benefit effective as of the first day
22 of the first month after the date in which the surviving
23 spouse becomes so ineligible.

24 “(2) In the event the surviving spouse of a veteran
25 becomes re-eligible for payment of a supplemental survivor

1 benefit under subsection (b)(2)(B), the surviving children
 2 of the veteran shall be ineligible for the benefit effective
 3 as of the first day of the first month after the date in
 4 which the surviving spouse becomes so re-eligible.

5 “(3) In the event of the death of a surviving child
 6 being paid a supplemental survivor benefit, the surviving
 7 child shall be ineligible for the benefit effective as of the
 8 first day of the first month after the surviving child’s
 9 death, and the payment of the benefit to the remaining
 10 surviving children (if any) of the veteran concerned shall
 11 be adjusted accordingly effective as of that day.

12 **“§ 1404. Reduction of compensation; termination of**
 13 **reduction**

14 “(a) REDUCTION OF COMPENSATION.—Effective as
 15 of the effective date of an election of a covered veteran
 16 under section 1402 of this title to provide a monthly sup-
 17 plemental survivor benefit under this chapter (as deter-
 18 mined in accordance with applicable provisions of section
 19 1402 of this title), the amount of monthly compensation
 20 for service-connected disability otherwise payable to the
 21 veteran under section 1203(a) of this title shall be reduced
 22 by an amount equal to 6.5 percent of the amount of such
 23 monthly compensation.

24 “(b) TERMINATION OF REDUCTION IN CONNECTION
 25 WITH BENEFIT FOR SURVIVING SPOUSE.—(1) In the case

1 of a covered veteran who has elected to provide a supple-
 2 mental survivor benefit under this chapter to the surviving
 3 spouse of the veteran, the reduction required by subsection
 4 (a) shall terminate effective as of the first day of the first
 5 month after—

6 “(A) the death of the spouse;

7 “(B) the revocation of the eligibility of the
 8 spouse for the benefit under section 1402(e) of this
 9 title; or

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

12 “(2) If after the reduction required by subsection (a)
 13 is terminated under paragraph (1)(C) a veteran elects
 14 under section 1402(d) of this title to provide the benefit
 15 to the surviving spouse of the remarriage covered by such
 16 section 1402(d), the reduction required by subsection (a)
 17 shall recommence effective as of the first day of the first
 18 month after the date of the remarriage, and shall be sub-
 19 ject to subsequent termination in accordance with para-
 20 graph (1).

21 “(c) TERMINATION OF REDUCTION IN CONNECTION
 22 WITH BENEFIT FOR SURVIVING CHILDREN.—In the case
 23 of a covered veteran who has elected to provide a supple-
 24 mental survivor benefit under this chapter to the surviving
 25 children of the veteran, the reduction required by sub-

1 section (a) shall terminate effective as of the first day of
 2 the first month after—

3 “(1) the date of death of the last child of the
 4 veteran; or

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

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

12 **“§ 1405. Offset for dependency and indemnity com-**
 13 **pensation**

14 “(a) IN GENERAL.—If an individual eligible for pay-
 15 ment of a monthly supplemental survivor benefit under
 16 this chapter based on the death of a covered veteran is
 17 or becomes entitled to dependency and indemnity com-
 18 pensation under chapter 13 of this title based on the death
 19 of the veteran, the amount of the supplemental survivor
 20 benefit paid the individual under this chapter for a month
 21 is the amount of the benefit otherwise payable to the indi-
 22 vidual under section 1403 of this title for that month
 23 minus the amount of the dependency and indemnity com-
 24 pensation so payable to the individual for that month.

1 “(b) EFFECTIVE DATE.—The reduction of benefit of
 2 an individual required by subsection (a) shall be effective
 3 as of the date of the commencement of the payment of
 4 dependency and indemnity compensation to the individual
 5 under chapter 13 of this title.

6 “(c) REIMBURSEMENT OF REDUCTION IN COM-
 7 PENSATION.—(1) If as a result of subsection (a) no benefit
 8 otherwise payable to an individual under section 1403 of
 9 this title with respect to a covered veteran is payable to
 10 the individual under this chapter, an amount shall be paid
 11 to the individual equal to the aggregate amount of the re-
 12 duction under section 1404(a) of this title of the monthly
 13 compensation otherwise payable to the veteran.

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

19 “(A) the aggregate amount of the reduction
 20 under section 1404(a) of this title of the monthly
 21 compensation otherwise payable to the veteran; mul-
 22 tiplied by

23 “(B) a number equal to 1 minus an amount
 24 equal to the fraction—

1 “(i) whose numerator is the amount of the
 2 monthly benefit payable to the individual under
 3 section 1403 of this title as a result of the re-
 4 duction under subsection (a); and

5 “(ii) whose denominator is the amount of
 6 the monthly benefit otherwise payable to the in-
 7 dividual under section 1403 of this title without
 8 regard to the reduction under subsection (a).

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

13 (2) CLERICAL AMENDMENTS.—The tables of
 14 chapters at the beginning of title 38, United States
 15 Code, and the beginning of part II of such title, as
 16 amended by section 207(b) of this Act, are each fur-
 17 ther amended by inserting after the item relating to
 18 chapter 13 the following new item:

**“14. Supplemental survivor benefit for survivors of vet-
 erans retired for disability after implemen-
 tation of enhanced Department of Veterans
 Affairs disability compensation system 1401”.**

19 (b) EFFECTIVE DATE.—Except as provided in sub-
 20 section (c), this section and the amendments made by this
 21 section shall take effect, if at all, on the effective date of
 22 the implementation of the enhanced Department of Vet-

1 erans Affairs disability compensation system as deter-
2 mined in accordance with section 206.

3 (c) ANTICIPATION OF IMPLEMENTATION.—The Sec-
4 retary of Veterans Affairs shall take appropriate actions
5 to ensure that the amendments made by this section are
6 implementable on the effective date described in sub-
7 section (b) in the event of the implementation of the en-
8 hanced Department of Veterans Affairs disability com-
9 pensation system on that date.

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