

110TH CONGRESS
2^D SESSION

H. R. 5509

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2008

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

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

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

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

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

TITLE II—COMPENSATION OF VETERANS FOR SERVICE-
CONNECTED DISABILITY

Sec. 201. Study on veterans disability compensation.

Sec. 202. Study on veterans transition benefits.

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

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

Sec. 205. Congressional consideration of proposal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **“§ 1206d. Retirement**

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

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

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

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

12 “(A) is of a permanent nature; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **“§ 1206h. Definitions**

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

5 “SUBCHAPTER III—ADMINISTRATIVE
6 MATTERS”.

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

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

“Subchapter	Sec.
“I. Retirement or Separation Before Implementation of Enhanced 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”;

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

- “Sec.
- “1200. Applicability of subchapter: members retired or separated before 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.”;

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

“Sec.

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

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

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

“1206d. Retirement.

“1206e. Temporary disability retired list.

“1206f. Treatment of retired pay.

“1206g. Determinations of unfitness.

“1206h. Definitions.”;

4 and

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

“Sec.

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

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

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

“1208. Computation of service.

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

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

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

“1212. Disability severance pay.

“1213. Effect of separation on benefits and claims.

“1214. Right to full and fair hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (A) in subsection (c)—

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

19 (ii) in paragraph (2), by inserting “,
20 or under section 1206b, 1206c, 1206d, or
21 1206e of this title for regular service,”

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

2 and

3 (iii) in paragraph (3)—

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

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

12 (B) in subsection (d)—

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

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

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

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

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

6 (f) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (2) may employ consultants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) may employ consultants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (2) may employ consultants.

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

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

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

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

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

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

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

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

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

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

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

6 (1) which does not have a preamble;

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

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

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

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

10 (d) CONSIDERATION.—

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

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

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

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

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

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

15 (e) CONSIDERATION BY OTHER HOUSE.—

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

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

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

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

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

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

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

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

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

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

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

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

16 (b) DISAPPROVAL BY CONGRESS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“1155. Schedule for rating disabilities.”.

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

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

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

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

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

“Sec.

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

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

“1203. Rates of compensation.

“1204. Transition benefits: payments; allowances.

“1205. Periodic review of extent of disability.

“1206. Prohibition on duplication of benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **“§ 1203. Rates of compensation**

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

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

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

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

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

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

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

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

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

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

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

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

10 “(c) REHABILITATION TRANSITION ALLOWANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (a) SUPPLEMENTAL SURVIVOR BENEFIT.—

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

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

“Sec.

“1401. Definition.

“1402. Election of benefit.

“1403. Receipt of benefit.

“1404. Reduction of compensation; termination of reduction.

“1405. Offset for dependency and indemnity compensation.

8 **“§ 1401. Definition**

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

14 **“§ 1402. Election of benefit**

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

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

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

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

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

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

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

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

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

15 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **“§ 1403. Receipt of benefit**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(A) the death of the spouse;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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