

110TH CONGRESS
2^D SESSION

S. 3023

AN ACT

To amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for 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.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Veterans’ Benefits Improvement Act of 2008”.

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

Sec. 1. Short title.

Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Regulations on contents of notice to be provided claimants with the Department of Veterans Affairs regarding the substantiation of claims.

Sec. 102. Judicial review of adoption and revision by the Secretary of Veterans Affairs of the schedule of ratings for disabilities of veterans.

Sec. 103. Automatic annual increase in rates of disability compensation and dependency and indemnity compensation.

Sec. 104. Conforming amendment relating to non-deductibility from veterans’ disability compensation of disability severance pay for disabilities incurred by members of the Armed Forces in combat zones.

Sec. 105. Report on progress of the Secretary of Veterans Affairs in addressing causes for variances in compensation payments for veterans for service-connected disabilities.

Sec. 106. Report on studies regarding compensation of veterans for loss of earning capacity and quality of life and on long-term transition payments to veterans undergoing rehabilitation for service-connected disabilities.

TITLE II—HOUSING MATTERS

Sec. 201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.

Sec. 202. Enhancement of refinancing of home loans by veterans.

Sec. 203. Four-year extension of demonstration projects on adjustable rate mortgages.

Sec. 204. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with a service-connected disability.

Sec. 205. Report on impact of mortgage foreclosures on veterans.

TITLE III—LABOR AND EDUCATION MATTERS

Subtitle A—Labor and Employment Matters

Sec. 301. Waiver of 24-month limitation on program of independent living services and assistance for veterans with a severe disability incurred in the Post-9/11 Global Operations period.

Sec. 302. Reform of USERRA complaint process.

Sec. 303. Modification and expansion of reporting requirements with respect to enforcement of USERRA.

- Sec. 304. Training for executive branch human resources personnel on employment and reemployment rights of members of the uniformed services.
- Sec. 305. Report on the employment needs of Native American veterans living on tribal lands.
- Sec. 306. Report on measures to assist and encourage veterans in completing vocational rehabilitation.

Subtitle B—Education Matters

- Sec. 311. Modification of period of eligibility for Survivors' and Dependents' Educational Assistance of certain spouses of individuals with service-connected disabilities total and permanent in nature.
- Sec. 312. Repeal of requirement for report to the Secretary of Veterans Affairs on prior training.
- Sec. 313. Modification of waiting period before affirmation of enrollment in a correspondence course.
- Sec. 314. Change of programs of education at the same educational institution.
- Sec. 315. Repeal of certification requirement with respect to applications for approval of self-employment on-job training.

Subtitle C—Other Matters

- Sec. 321. Designation of the Office of Small Business Programs of the Department of Veterans Affairs.

TITLE IV—COURT MATTERS

- Sec. 401. Temporary increase in number of authorized judges of the United States Court of Appeals for Veterans Claims.
- Sec. 402. Protection of privacy and security concerns in court records.
- Sec. 403. Recall of retired judges of the United States Court of Appeals for Veterans Claims.
- Sec. 404. Annual reports on workload of the United States Court of Appeals for Veterans Claims.

TITLE V—INSURANCE MATTERS

- Sec. 501. Report on inclusion of severe and acute Post Traumatic Stress Disorder among conditions covered by traumatic injury protection coverage under Servicemembers' Group Life Insurance.
- Sec. 502. Treatment of stillborn children as insurable dependents under Servicemembers' Group Life Insurance.
- Sec. 503. Other enhancements of Servicemembers' Group Life Insurance coverage.

TITLE VI—OTHER MATTERS

- Sec. 601. Authority for suspension or termination of claims of the United States against individuals who died while serving on active duty in the Armed Forces.
- Sec. 602. Memorial headstones and markers for deceased remarried surviving spouses of veterans.
- Sec. 603. Three-year extension of authority to carry out income verification.
- Sec. 604. Three-year extension of temporary authority for the performance of medical disability examinations by contract physicians.

1 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of title 38, United States Code.

7 **TITLE I—COMPENSATION AND**
8 **PENSION MATTERS**

9 **SEC. 101. REGULATIONS ON CONTENTS OF NOTICE TO BE**
10 **PROVIDED CLAIMANTS WITH THE DEPART-**
11 **MENT OF VETERANS AFFAIRS REGARDING**
12 **THE SUBSTANTIATION OF CLAIMS.**

13 (a) IN GENERAL.—Section 5103(a) is amended—

14 (1) by inserting “(1)” before “Upon receipt”;
15 and

16 (2) by adding at the end the following new
17 paragraph:

18 “(2)(A) The Secretary shall prescribe in regulations
19 requirements relating to the contents of notice to be pro-
20 vided under this subsection.

21 “(B) The regulations required by this paragraph—

22 “(i) shall specify different contents for notice
23 depending on whether the claim concerned is an
24 original claim, a claim for reopening a prior decision
25 on a claim, or a claim for increase in benefits;

1 “(ii) may provide additional or alternative con-
2 tents for notice if appropriate to the benefit or serv-
3 ices sought under the claim;

4 “(iii) shall specify for each type of claim for
5 benefits the general information and evidence re-
6 quired to substantiate the basic elements of such
7 type of claim; and

8 “(iv) shall specify the time period limitations
9 required pursuant to subsection (b).”.

10 (b) **APPLICABILITY.**—The regulations required by
11 paragraph (2) of section 5103(a) of title 38, United States
12 Code (as amended by subsection (a) of this section), shall
13 apply with respect to notices provided to claimants on or
14 after the effective date of such regulations.

15 **SEC. 102. JUDICIAL REVIEW OF ADOPTION AND REVISION**

16 **BY THE SECRETARY OF VETERANS AFFAIRS**
17 **OF THE SCHEDULE OF RATINGS FOR DIS-**
18 **ABILITIES OF VETERANS.**

19 Section 502 is amended by striking “(other than an
20 action relating to the adoption or revision of the schedule
21 of ratings for disabilities adopted under section 1155 of
22 this title)”.

1 **SEC. 103. AUTOMATIC ANNUAL INCREASE IN RATES OF DIS-**
2 **ABILITY COMPENSATION AND DEPENDENCY**
3 **AND INDEMNITY COMPENSATION.**

4 (a) INDEXING TO SOCIAL SECURITY INCREASES.—
5 Section 5312 is amended by adding at the end the fol-
6 lowing new subsection:

7 “(d)(1) Whenever there is an increase in benefit
8 amounts payable under title II of the Social Security Act
9 (42 U.S.C. 401 et seq.) as a result of a determination
10 made under section 215(i) of such Act (42 U.S.C. 415(i)),
11 the Secretary shall, effective on the date of such increase
12 in benefit amounts, increase the dollar amounts in effect
13 for the payment of disability compensation and depend-
14 ency and indemnity compensation by the Secretary, as
15 specified in paragraph (2), as such amounts were in effect
16 immediately prior to the date of such increase in benefit
17 amounts payable under title II of the Social Security Act,
18 by the same percentage as the percentage by which such
19 benefit amounts are increased.

20 “(2) The dollar amounts to be increased pursuant to
21 paragraph (1) are the following:

22 “(A) COMPENSATION.—Each of the dollar
23 amounts in effect under section 1114 of this title.

24 “(B) ADDITIONAL COMPENSATION FOR DE-
25 PENDENTS.—Each of the dollar amounts in effect
26 under section 1115(1) of this title.

1 “(C) CLOTHING ALLOWANCE.—The dollar
2 amount in effect under section 1162 of this title.

3 “(D) NEW DIC RATES.—Each of the dollar
4 amounts in effect under paragraphs (1) and (2) of
5 section 1311(a) of this title.

6 “(E) OLD DIC RATES.—Each of the dollar
7 amounts in effect under section 1311(a)(3) of this
8 title.

9 “(F) ADDITIONAL DIC FOR SURVIVING SPOUSES
10 WITH MINOR CHILDREN.—The dollar amount in ef-
11 fect under section 1311(b) of this title.

12 “(G) ADDITIONAL DIC FOR DISABILITY.—Each
13 of the dollar amounts in effect under sections
14 1311(e) and 1311(d) of this title.

15 “(H) DIC FOR DEPENDENT CHILDREN.—Each
16 of the dollar amounts in effect under sections
17 1313(a) and 1314 of this title.

18 “(3) Whenever there is an increase under paragraph
19 (1) in amounts in effect for the payment of disability com-
20 pensation and dependency and indemnity compensation,
21 the Secretary shall publish such amounts, as increased
22 pursuant to such paragraph, in the Federal Register at
23 the same time as the material required by section
24 215(i)(2)(D) of the Social Security Act (42 U.S.C.

1 415(i)(2)(D)) is published by reason of a determination
2 under section 215(i) of such Act (42 U.S.C. 415(i)).”.

3 (b) EFFECTIVE DATE.—Subsection (d) of section
4 5312 of title 38, United States Code, as added by sub-
5 section (a) of this section, shall take effect on December
6 1, 2009.

7 **SEC. 104. CONFORMING AMENDMENT RELATING TO NON-**
8 **DEDUCTIBILITY FROM VETERANS’ DIS-**
9 **ABILITY COMPENSATION OF DISABILITY SEV-**
10 **ERANCE PAY FOR DISABILITIES INCURRED**
11 **BY MEMBERS OF THE ARMED FORCES IN**
12 **COMBAT ZONES.**

13 (a) CONFORMING AMENDMENT.—Section 1646 of the
14 Wounded Warrior Act (title XVI of Public Law 110–181;
15 122 Stat. 472) is amended—

16 (1) by redesignating subsection (c) as sub-
17 section (d); and

18 (2) by inserting after subsection (b) the fol-
19 lowing new subsection (c):

20 “(c) CONFORMING AMENDMENT.—Section 1161 of
21 title 38, United States Code, is amended by striking ‘as
22 required by section 1212(e) of title 10’ and inserting ‘to
23 the extent required by section 1212(d) of title 10’.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall take effect on January 28, 2008 (the

1 date of the enactment of the Wounded Warrior Act), as
2 if included in that Act, to which they relate.

3 **SEC. 105. REPORT ON PROGRESS OF THE SECRETARY OF**
4 **VETERANS AFFAIRS IN ADDRESSING CAUSES**
5 **FOR VARIANCES IN COMPENSATION PAY-**
6 **MENTS FOR VETERANS FOR SERVICE-CON-**
7 **NECTED DISABILITIES.**

8 (a) REPORT REQUIRED.—Not later than one year
9 after the date of the enactment of this Act, the Secretary
10 of Veterans Affairs shall submit to the Committee on Vet-
11 erans' Affairs of the Senate and the Committee on Vet-
12 erans' Affairs of the House of Representatives a report
13 describing the progress of the Secretary in addressing the
14 causes of unacceptable variances in compensation pay-
15 ments for veterans for service-connected disabilities.

16 (b) ELEMENTS.—The report required under sub-
17 section (a) shall include the following:

18 (1) A description of the efforts of the Veterans
19 Benefits Administration to coordinate with the Vet-
20 erans Health Administration to improve the quality
21 of examinations of veterans with service-connected
22 disabilities that are performed by the Veterans
23 Health Administration and contract clinicians, in-
24 cluding efforts relating to the use of approved tem-
25 plates for such examinations and of reports on such

1 examinations that are based on such templates pre-
2 pared in an easily-readable format.

3 (2) An assessment of the current personnel re-
4 quirements of the Veterans Benefits Administration,
5 including an assessment of the adequacy of the num-
6 ber of personnel assigned to each regional office of
7 the Administration for each type of claim adjudica-
8 tion position.

9 (3) A description of the differences, if any, in
10 current patterns of submittal rate of claims to the
11 Secretary of Veterans Affairs regarding service-con-
12 nected disabilities among various populations of vet-
13 erans, including veterans living in rural and highly
14 rural areas, minority veterans, veterans who served
15 in the National Guard or Reserve, and veterans who
16 are retired from the Armed Forces, and a descrip-
17 tion and assessment of efforts undertaken to elimi-
18 nate such differences.

1 **SEC. 106. REPORT ON STUDIES REGARDING COMPENSA-**
2 **TION OF VETERANS FOR LOSS OF EARNING**
3 **CAPACITY AND QUALITY OF LIFE AND ON**
4 **LONG-TERM TRANSITION PAYMENTS TO VET-**
5 **ERANS UNDERGOING REHABILITATION FOR**
6 **SERVICE-CONNECTED DISABILITIES.**

7 (a) FINDING.—Congress finds that the Secretary of
8 Veterans Affairs entered into a contract in February 2008
9 to conduct two studies as follows:

10 (1) A study on the appropriate levels of dis-
11 ability compensation to be paid to veterans to com-
12 pensate for loss of earning capacity and quality of
13 life as a result of service-related disabilities.

14 (2) A study on the feasibility and appropriate
15 level of long-term transition payments to veterans
16 who are separated from the Armed Forces due to
17 disability while such veterans are undergoing reha-
18 bilitation for such disability.

19 (b) REPORT REQUIRED.—

20 (1) IN GENERAL.—The Secretary of Veterans
21 Affairs shall submit to Congress a report on the
22 studies referred to in subsection (a).

23 (2) ELEMENTS.—The report required by this
24 subsection shall include the following:

25 (A) A comprehensive description of the
26 findings and recommendations of the studies.

1 (B) A description of the actions proposed
2 to be taken by the Secretary in light of such
3 findings and recommendations, including a de-
4 scription of any modification of the schedule for
5 rating disabilities of veterans under section
6 1155 of title 38, United States Code, proposed
7 to be undertaken by the Secretary and of any
8 other modification of policy or regulations pro-
9 posed to be undertaken by the Secretary.

10 (C) For each action proposed to be taken
11 as described in subparagraph (B), a proposed
12 schedule for the taking of such action, including
13 a schedule for the commencement and comple-
14 tion of such action.

15 (D) A description of any legislative action
16 required in order to authorize, facilitate, or en-
17 hance the taking of any action proposed to be
18 taken as described in subparagraph (B).

19 (3) SUBMITTAL DATE.—The report required by
20 this subsection shall be submitted not later than 210
21 days after the date of the enactment of this Act.

1 **TITLE II—HOUSING MATTERS**

2 **SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUAR-**
3 **ANTY AMOUNT FOR CERTAIN HOUSING**
4 **LOANS GUARANTEED BY THE SECRETARY OF**
5 **VETERANS AFFAIRS.**

6 Notwithstanding subparagraph (C) of section
7 3703(a)(1) of title 38, United States Code, for purposes
8 of any loan described in subparagraph (A)(i)(IV) of such
9 section that is originated during the period beginning on
10 the date of the enactment of this Act and ending on De-
11 cember 31, 2011, the term “maximum guaranty amount”
12 shall mean an amount equal to 25 percent of the higher
13 of—

14 (1) the limitation determined under section
15 305(a)(2) of the Federal Home Loan Mortgage Cor-
16 poration Act (12 U.S.C. 1454(a)(2)) for the cal-
17 endar year in which the loan is originated for a sin-
18 gle-family residence; or

19 (2) 125 percent of the area median price for a
20 single-family residence, but in no case to exceed 175
21 percent of the limitation determined under such sec-
22 tion 305(a)(2) for the calendar year in which the
23 loan is originated for a single-family residence.

1 **SEC. 202. ENHANCEMENT OF REFINANCING OF HOME**
2 **LOANS BY VETERANS.**

3 (a) INCLUSION OF REFINANCING LOANS AMONG
4 LOANS SUBJECT TO GUARANTY MAXIMUM.—Section
5 3703(a)(1)(A)(i)(IV) is amended by inserting “(5),” after
6 “(3),”.

7 (b) INCREASE IN MAXIMUM PERCENTAGE OF LOAN-
8 TO-VALUE OF REFINANCING LOANS SUBJECT TO GUAR-
9 ANTY.—Section 3710(b)(8) is amended by striking “90
10 percent” and inserting “95 percent”.

11 **SEC. 203. FOUR-YEAR EXTENSION OF DEMONSTRATION**
12 **PROJECTS ON ADJUSTABLE RATE MORT-**
13 **GAGES.**

14 (a) DEMONSTRATION PROJECT ON ADJUSTABLE
15 RATE MORTGAGES.—Section 3707(a) is amended by
16 striking “during fiscal years 1993 through 2008” and in-
17 serting “during the period beginning with the beginning
18 of fiscal year 1993 and ending at the end of fiscal year
19 2012”.

20 (b) DEMONSTRATION PROJECT ON HYBRID ADJUST-
21 ABLE RATE MORTGAGES.—Section 3707A(a) is amended
22 by striking “through 2008” and inserting “through
23 2012”.

1 **SEC. 204. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING**
2 **BENEFITS AND ASSISTANCE FOR MEMBERS**
3 **OF THE ARMED FORCES WITH A SERVICE-**
4 **CONNECTED DISABILITY.**

5 The Secretary of Veterans Affairs may provide assist-
6 ance under chapter 21 of title 38, United States Code,
7 to a member of the Armed Forces serving on active duty
8 who is suffering from a disability described in section
9 2101 of such title if such disability is the result of an in-
10 jury incurred or disease contracted in or aggravated in line
11 of duty in the active military, naval, or air service. Such
12 assistance shall be provided to the same extent, and sub-
13 ject to the same limitations, as assistance is provided to
14 veterans under chapter 21 of such title.

15 **SEC. 205. REPORT ON IMPACT OF MORTGAGE FORE-**
16 **CLOSURES ON VETERANS.**

17 (a) REPORT REQUIRED.—Not later than December
18 31, 2009, the Secretary of Veterans Affairs shall submit
19 to the Committee on Veterans' Affairs of the Senate and
20 the Committee on Veterans' Affairs of the House of Rep-
21 resentatives a report on the effects of mortgage fore-
22 closures on veterans.

23 (b) ELEMENTS.—The report required by subsection
24 (a) shall include the following:

1 (1) A general assessment of the income of vet-
2 erans who have recently separated from the Armed
3 Forces.

4 (2) An assessment of the effects of any lag or
5 delay in the adjudication by the Secretary of claims
6 of veterans for disability compensation on the capac-
7 ity of veterans to maintain adequate or suitable
8 housing.

9 (3) A description of the extent to which the
10 provisions of the Servicemembers Civil Relief Act
11 (50 U.S.C. App. 501 et seq.) protect veterans from
12 mortgage foreclosure, and an assessment of the ade-
13 quacy of such protections.

14 (4) A description and assessment of the ade-
15 quacy of the home loan guaranty programs of the
16 Department of Veterans Affairs, including the au-
17 thorities of such programs and the assistance pro-
18 vided individuals in the utilization of such programs,
19 in preventing foreclosure for veterans recently sepa-
20 rated from the Armed Forces, and for members of
21 the Armed Forces, who have home loans guaranteed
22 by the Secretary.

1 **TITLE III—LABOR AND**
2 **EDUCATION MATTERS**
3 **Subtitle A—Labor and Employment**
4 **Matters**

5 **SEC. 301. WAIVER OF 24-MONTH LIMITATION ON PROGRAM**
6 **OF INDEPENDENT LIVING SERVICES AND AS-**
7 **SISTANCE FOR VETERANS WITH A SEVERE**
8 **DISABILITY INCURRED IN THE POST-9/11**
9 **GLOBAL OPERATIONS PERIOD.**

10 Section 3105(d) is amended—

11 (1) by striking “Unless the Secretary” and all
12 that follows through “the period of a program” and
13 inserting “(1) Except as provided in paragraph (2),
14 the period of a program”; and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2)(A) The period of a program of independent liv-
18 ing services and assistance for a veteran under this chap-
19 ter may exceed twenty-four months as follows:

20 “(i) If the Secretary determines that a longer
21 period is necessary and likely to result in a substan-
22 tial increase in the veteran’s level of independence in
23 daily living.

24 “(ii) If the veteran served on active duty during
25 the Post-9/11 Global Operations period and has a

1 severe disability (as determined by the Secretary for
2 purposes of this clause) incurred or aggravated in
3 such service.

4 “(B) In this paragraph, the term ‘Post-9/11 Global
5 Operations period’ means the period of the Persian Gulf
6 War beginning on September 11, 2001, and ending on the
7 date thereafter prescribed by Presidential proclamation or
8 by law.”.

9 **SEC. 302. REFORM OF USERRA COMPLAINT PROCESS.**

10 (a) NOTIFICATION OF RIGHTS WITH RESPECT TO
11 COMPLAINTS.—Subsection (c) of section 4322 is amended
12 to read as follows:

13 “(c)(1) Not later than five days after the Secretary
14 receives a complaint submitted by a person under sub-
15 section (a), the Secretary shall notify such person in writ-
16 ing of his or her rights with respect to such complaint
17 under this section and section 4323 or 4324, as the case
18 may be.

19 “(2) The Secretary shall, upon request, provide tech-
20 nical assistance to a potential claimant with respect to a
21 complaint under this subsection, and when appropriate, to
22 such claimant’s employer.”.

23 (b) NOTIFICATION OF RESULTS OF INVESTIGATION
24 IN WRITING.—Subsection (e) of such section is amended
25 by inserting “in writing” after “submitted the complaint”.

1 (c) EXPEDITION OF ATTEMPTS TO INVESTIGATE
2 AND RESOLVE COMPLAINTS.—Section 4322 is further
3 amended—

4 (1) by redesignating subsection (f) as sub-
5 section (g); and

6 (2) by inserting after subsection (e) the fol-
7 lowing new subsection (f):

8 “(f) Any action required by subsections (d) and (e)
9 with respect to a complaint submitted by a person to the
10 Secretary under subsection (a) shall be completed by the
11 Secretary not later than 90 days after receipt of such com-
12 plaint.”.

13 (d) EXPEDITION OF REFERRALS.—

14 (1) EXPEDITION OF REFERRALS TO ATTORNEY
15 GENERAL.—Section 4323(a)(1) is amended by in-
16 sserting “Not later than 60 days after the Secretary
17 receives such a request with respect to a complaint,
18 the Secretary shall refer the complaint to the Attor-
19 ney General.” after “to the Attorney General.”.

20 (2) EXPEDITION OF REFERRALS TO SPECIAL
21 COUNSEL.—Section 4324(a)(1) is amended by strik-
22 ing “The Secretary shall refer” and inserting “Not
23 later than 60 days after the date the Secretary re-
24 ceives such a request, the Secretary shall refer”.

25 (e) NOTIFICATION OF REPRESENTATION.—

1 (1) NOTIFICATION BY ATTORNEY GENERAL.—

2 Section 4323(a) is further amended—

3 (A) by redesignating paragraph (2) as
4 paragraph (3); and

5 (B) by inserting after paragraph (1) the
6 following new paragraph (2):

7 “(2) Not later than 60 days after the date the Attor-
8 ney General receives a referral under paragraph (1), the
9 Attorney General shall—

10 “(A) make a decision whether to appear on be-
11 half of, and act as attorney for, the person on whose
12 behalf the complaint is submitted; and

13 “(B) notify such person in writing of such deci-
14 sion.”.

15 (2) NOTIFICATION BY SPECIAL COUNSEL.—

16 Subparagraph (B) of section 4324(a)(2) is amended
17 to read as follows:

18 “(B) Not later than 60 days after the date the Spe-
19 cial Counsel receives a referral under paragraph (1), the
20 Special Counsel shall—

21 “(i) make a decision whether to represent a
22 person before the Merit Systems Protection Board
23 under subparagraph (A); and

24 “(ii) notify such person in writing of such deci-
25 sion.”.

1 (f) DEADLINES, STATUTES OF LIMITATIONS, AND
2 RELATED MATTERS.—

3 (1) IN GENERAL.—Subchapter III of chapter
4 43 is amended by adding at the end the following
5 new section:

6 **“§ 4327. Noncompliance of Federal officials with**
7 **deadlines; inapplicability of statutes of**
8 **limitations**

9 “(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OF-
10 FICIALS WITH DEADLINES.—(1) The inability of the Sec-
11 retary, the Attorney General, or the Special Counsel to
12 comply with a deadline applicable to such official under
13 section 4322, 4323, or 4324 of this title—

14 “(A) shall not affect the authority of the Attor-
15 ney General or the Special Counsel to represent and
16 file an action or submit a complaint on behalf of a
17 person under section 4323 or 4324 of this title;

18 “(B) shall not affect the right of a person—

19 “(i) to commence an action under section
20 4323 of this title;

21 “(ii) to submit a complaint under section
22 4324 of this title; or

23 “(iii) to obtain any type of assistance or
24 relief authorized by this chapter;

1 “(C) shall not deprive a Federal court, the
2 Merit Systems Protection Board, or a State court of
3 jurisdiction over an action or complaint filed by the
4 Attorney General, the Special Counsel, or a person
5 under section 4323 or 4324 of this title; and

6 “(D) shall not constitute a defense, including a
7 statute of limitations period, that any employer (in-
8 cluding a State, a private employer, or a Federal ex-
9 ecutive agency) or the Office of Personnel Manage-
10 ment may raise in an action filed by the Attorney
11 General, the Special Counsel, or a person under sec-
12 tion 4323 or 4324 of this title.

13 “(2) If the Secretary, the Attorney General, or the
14 Special Counsel is unable to meet a deadline applicable
15 to such official in section 4322(f), 4323(a)(1), 4323(a)(2),
16 4324(a)(1), or 4324(a)(2)(B) of this title, and the person
17 agrees to an extension of time, the Secretary, the Attorney
18 General, or the Special Counsel, as the case may be, shall
19 complete the required action within the additional period
20 of time agreed to by the person.

21 “(b) INAPPLICABILITY OF STATUTES OF LIMITA-
22 TIONS.—If any person seeks to file a complaint or claim
23 with the Secretary, the Merit Systems Protection Board,
24 or a Federal or State court under this chapter alleging

1 a violation of this chapter, there shall be no limit on the
2 period for filing the complaint or claim.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of chapter 43 is amended by
5 inserting after the item relating to section 4326 the
6 following new item:

“4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations.”.

7 (3) CONFORMING AMENDMENT.—Section 4323
8 is further amended—

9 (A) by striking subsection (i); and

10 (B) by redesignating subsection (j) as sub-
11 section (i).

12 **SEC. 303. MODIFICATION AND EXPANSION OF REPORTING**
13 **REQUIREMENTS WITH RESPECT TO EN-**
14 **FORCEMENT OF USERRA.**

15 (a) DATE OF ANNUAL REPORTS.—Section 4332 is
16 amended by striking “and no later than February 1,
17 2005” and all that follows through the “such February
18 1:” and inserting “, transmit to Congress not later than
19 July 1 each year a report on matters for the fiscal year
20 ending in the year before the year in which such report
21 is transmitted as follows:”.

22 (b) MODIFICATION OF ANNUAL REPORTS BY SEC-
23 RETARY.—Such section is further amended—

1 (1) by striking “The Secretary shall” and in-
2 serting “(a) ANNUAL REPORT BY SECRETARY.—The
3 Secretary shall”;

4 (2) in paragraph (3), by inserting before the pe-
5 riod at the end the following: “and the number of
6 actions initiated by the Office of Special Counsel be-
7 fore the Merit Systems Protection Board pursuant
8 to section 4324 during such fiscal year”;

9 (3) by redesignating paragraphs (6) and (7) as
10 paragraphs (9) and (10), respectively;

11 (4) by inserting after paragraph (5) the fol-
12 lowing new paragraph (8):

13 “(8) With respect to the cases reported on pur-
14 suant to paragraphs (1), (2), (3), (4), and (5) the
15 number of such cases that involve persons with dif-
16 ferent occupations or persons seeking different occu-
17 pations, as designated by the Standard Occupational
18 Classification System.”.

19 (5) by redesignating paragraph (5) as para-
20 graph (7);

21 (6) by inserting after paragraph (4) the fol-
22 lowing new paragraphs (5) and (6):

23 “(5) The number of cases reviewed by the Sec-
24 retary and the Secretary of Defense through the Na-
25 tional Committee for Employer Support of the

1 Guard and Reserve of the Department of Defense
2 that involve the same person.

3 “(6) With respect to the cases reported on pur-
4 suant to paragraphs (1), (2), (3), (4), and (5)—

5 “(A) the number of such cases that involve
6 a disability-related issue; and

7 “(B) the number of such cases that involve
8 a person who has a service-connected dis-
9 ability.”; and

10 (7) in paragraph (7), as redesignated by para-
11 graph (5) of this subsection, by striking “or (4)”
12 and inserting “(4), or (5)”.

13 (c) ADDITIONAL REPORTS.—Such section is further
14 amended by adding at the end the following new sub-
15 section:

16 “(b) QUARTERLY REPORTS.—

17 “(1) QUARTERLY REPORT BY SECRETARY.—

18 Not later than 30 days after the end of each fiscal
19 quarter, the Secretary shall submit to Congress, the
20 Secretary of Defense, the Attorney General, and the
21 Special Counsel a report setting forth, for the pre-
22 vious full quarter, the following:

23 “(A) The number of cases for which the
24 Secretary did not meet the requirements of sec-
25 tion 4322(f) of this title.

1 “(B) The number of cases for which the
2 Secretary received a request for a referral
3 under paragraph (1) of section 4323(a) of this
4 title but did not make such referral within the
5 time period required by such paragraph.

6 “(2) QUARTERLY REPORT BY ATTORNEY GEN-
7 ERAL.—Not later than 30 days after the end of each
8 fiscal quarter, the Attorney General shall submit to
9 Congress, the Secretary, the Secretary of Defense,
10 and the Special Counsel a report setting forth, for
11 the previous full quarter, the number of cases for
12 which the Attorney General received a referral under
13 paragraph (1) of section 4323(a) of this title but did
14 not meet the requirements of paragraph (2) of sec-
15 tion 4323(a) of this title for such referral.

16 “(3) QUARTERLY REPORT BY SPECIAL COUN-
17 SEL.—Not later than 30 days after the end of each
18 fiscal quarter, the Special Counsel shall submit to
19 Congress, the Secretary, the Secretary of Defense,
20 and the Attorney General a report setting forth, for
21 the previous full quarter, the number of cases for
22 which the Special Counsel received a referral under
23 paragraph (1) of section 4324(a) of this title but did
24 not meet the requirements of paragraph (2)(B) of
25 section 4324(a) of this title for such referral.”.

1 (d) UNIFORM CATEGORIZATION OF DATA.—Such
2 section is further amended by adding at the end the fol-
3 lowing new subsection:

4 “(c) UNIFORM CATEGORIZATION OF DATA.—The
5 Secretary shall coordinate with the Secretary of Defense,
6 the Attorney General, and the Special Counsel to ensure
7 that—

8 “(1) the information in the reports required by
9 this section is categorized in a uniform way; and

10 “(2) the Secretary, the Secretary of Defense,
11 the Attorney General, and the Special Counsel each
12 have electronic access to the case files reviewed
13 under this chapter by the Secretary, the Secretary of
14 Defense, the Attorney General, and the Special
15 Counsel with due regard for the provisions of section
16 552a of title 5.”.

17 (e) COMPTROLLER GENERAL REPORT.—Not later
18 than two years after the date of the enactment of this Act,
19 the Comptroller General of the United States shall submit
20 to Congress a report that contains the following:

21 (1) An assessment of the reliability of the data
22 contained in the reports submitted under subsection
23 (b) of section 4332 of title 38, United States Code
24 (as amended by subsection (c) of this section), as of
25 the date of such report.

1 (2) An assessment of the timeliness of the re-
2 ports submitted under subsection (b) of section 4332
3 of title 38, United States Code (as so amended), as
4 of such date.

5 (3) The extent to which the Secretary of Labor
6 is meeting the timeliness requirements of subsections
7 (c)(1) and (f) of section 4322 of title 38, United
8 States Code (as amended by section 302 of this
9 Act), and section 4323(a)(1) of title 38, United
10 States Code (as so amended), as of the date of such
11 report.

12 (4) The extent to which the Attorney General
13 is meeting the timeliness requirements of section
14 4323(a)(2) of title 38, United States Code (as
15 amended by section 302 of this Act), as of the date
16 of such report.

17 (5) The extent to which the Special Counsel is
18 meeting the timeliness requirements of section
19 4324(a)(2)(B) of title 38, United States Code (as
20 amended by section 302 of this Act), as of the date
21 of such report.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to each report re-
24 quired under section 4332 of title 38, United States Code

1 (as amended by this section), after the date of the enact-
 2 ment of this Act.

3 **SEC. 304. TRAINING FOR EXECUTIVE BRANCH HUMAN RE-**
 4 **SOURCES PERSONNEL ON EMPLOYMENT AND**
 5 **REEMPLOYMENT RIGHTS OF MEMBERS OF**
 6 **THE UNIFORMED SERVICES.**

7 (a) TRAINING REQUIRED.—Subchapter IV of chapter
 8 43 is amended by adding at the end the following new
 9 section:

10 **“§ 4335. Training for Federal executive agency**
 11 **human resources personnel on employ-**
 12 **ment and reemployment rights and limi-**
 13 **tations**

14 “(a) TRAINING REQUIRED.—The head of each Fed-
 15 eral executive agency shall provide training for the human
 16 resources personnel of such agency on the following:

17 “(1) The rights, benefits, and obligations of
 18 members of the uniformed services under this chap-
 19 ter.

20 “(2) The application and administration of the
 21 requirements of this chapter by such agency with re-
 22 spect to such members.

23 “(b) CONSULTATION.—The training provided under
 24 subsection (a) shall be developed and provided in consulta-

1 tion with the Director of the Office of Personnel Manage-
2 ment.

3 “(c) FREQUENCY.—The training under subsection
4 (a) shall be provided with such frequency as the Director
5 of the Office of Personnel Management shall specify in
6 order to ensure that the human resources personnel of
7 Federal executive agencies are kept fully and currently in-
8 formed of the matters covered by the training.

9 “(d) HUMAN RESOURCES PERSONNEL DEFINED.—
10 In this section, the term ‘human resources personnel’, in
11 the case of a Federal executive agency, means any per-
12 sonnel of the agency who are authorized to recommend,
13 take, or approve any personnel action that is subject to
14 the requirements of this chapter with respect to employees
15 of the agency.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 43 is amended by adding at
18 the end the following new item:

“4335. Training for Federal executive agency human resources personnel on em-
ployment and reemployment rights and limitations.”.

19 **SEC. 305. REPORT ON THE EMPLOYMENT NEEDS OF NATIVE**
20 **AMERICAN VETERANS LIVING ON TRIBAL**
21 **LANDS.**

22 (a) REPORT.—Not later than December 1, 2009, the
23 Secretary of Labor shall, in consultation with the Sec-
24 retary of Veterans Affairs and the Secretary of the Inte-

1 rior, submit to Congress a report assessing the employ-
2 ment needs of Native American (American Indian, Alaska
3 Native, Native Hawaiian, and Pacific Islander) veterans
4 living on tribal lands, including Indian reservations, Alas-
5 ka Native villages, and Hawaiian Home Lands. The report
6 shall include—

7 (1) a review of current and prior government-
8 to-government relationships between tribal organiza-
9 tions and the Veterans' Employment and Training
10 Service of the Department of Labor; and

11 (2) recommendations for improving employment
12 and job training opportunities for Native American
13 veterans on tribal land, especially through the utili-
14 zation of resources for veterans.

15 (b) TRIBAL ORGANIZATION DEFINED.—In this sec-
16 tion, the term “tribal organization” has the meaning given
17 such term in section 3765(4) of title 38, United States
18 Code.

19 **SEC. 306. REPORT ON MEASURES TO ASSIST AND ENCOUR-**
20 **AGE VETERANS IN COMPLETING VOCA-**
21 **TIONAL REHABILITATION.**

22 (a) STUDY REQUIRED.—The Secretary of Veterans
23 Affairs shall conduct a study on measures to assist and
24 encourage veterans in completing vocational rehabilitation.
25 The study shall include an identification of the following:

1 (1) The various factors that may prevent or
2 preclude veterans from completing their vocational
3 rehabilitation plans through the Department of Vet-
4 erans Affairs or otherwise achieving the vocational
5 rehabilitation objectives of such plans.

6 (2) The actions to be taken by the Secretary to
7 assist and encourage veterans in overcoming the fac-
8 tors identified in paragraph (1) and in otherwise
9 completing their vocational rehabilitation plans or
10 achieving the vocational rehabilitation objectives of
11 such plans.

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

15 (1) Measures utilized in other disability systems
16 in the United States, and in other countries, to en-
17 courage completion of vocational rehabilitation by
18 persons covered by such systems.

19 (2) Any studies or survey data available to the
20 Secretary that relates to the matters covered by the
21 study.

22 (3) The extent to which disability compensation
23 may be used as an incentive to encourage veterans
24 to undergo and complete vocational rehabilitation.

1 (4) The report of the Veterans' Disability Bene-
2 fits Commission established pursuant to section
3 1501 of the National Defense Authorization Act of
4 2004 (38 U.S.C. 1101 note).

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

8 (6) Any other matters that the Secretary con-
9 siders appropriate for purposes of the study.

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

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

17 (2) such other matters as the Secretary con-
18 siders appropriate.

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

21 (1) shall consult with such veterans and mili-
22 tary service organizations, and with such other pub-
23 lic and private organizations and individuals, as the
24 Secretary considers appropriate; and

25 (2) may employ consultants.

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

7 (1) The findings of the Secretary under the
8 study.

9 (2) Any recommendations that the Secretary
10 considers appropriate for actions to be taken by the
11 Secretary in light of the study, including a proposal
12 for such legislative or administrative action as the
13 Secretary considers appropriate to implement the
14 recommendations.

15 **Subtitle B—Education Matters**

16 **SEC. 311. MODIFICATION OF PERIOD OF ELIGIBILITY FOR** 17 **SURVIVORS’ AND DEPENDENTS’ EDU-** 18 **CATIONAL ASSISTANCE OF CERTAIN** 19 **SPOUSES OF INDIVIDUALS WITH SERVICE-** 20 **CONNECTED DISABILITIES TOTAL AND PER-** 21 **MANENT IN NATURE.**

22 Section 3512(b)(1) is amended—

23 (1) in subparagraph (A), by striking “subpara-
24 graph (B) or (C)” and inserting “subparagraph (B),
25 (C), or (D)”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(D) Notwithstanding subparagraph (A), an eligible
4 person referred to in that subparagraph who is made eligi-
5 ble under section 3501(a)(1)(D)(i) of this title by reason
6 of a service-connected disability that was determined to
7 be a total disability permanent in nature not later than
8 three years after discharge from service may be afforded
9 educational assistance under this chapter during the 20-
10 year period beginning on the date the disability was so
11 determined to be a total disability permanent in nature,
12 but only if the eligible person remains the spouse of the
13 disabled person throughout the period.”.

14 **SEC. 312. REPEAL OF REQUIREMENT FOR REPORT TO THE**
15 **SECRETARY OF VETERANS AFFAIRS ON**
16 **PRIOR TRAINING.**

17 Section 3676(c)(4) is amended by striking “and the
18 Secretary”.

19 **SEC. 313. MODIFICATION OF WAITING PERIOD BEFORE AF-**
20 **FIRMATION OF ENROLLMENT IN A COR-**
21 **RESPONDENCE COURSE.**

22 Section 3686(b) is amended by striking “ten” and in-
23 serting “five”.

1 **SEC. 314. CHANGE OF PROGRAMS OF EDUCATION AT THE**
2 **SAME EDUCATIONAL INSTITUTION.**

3 Section 3691(d) is amended—

4 (1) by redesignating paragraphs (1), (2), (3),
5 and (4) as subparagraphs (A), (B), (C), and (D), re-
6 spectively;

7 (2) by inserting “(1)” after “(d)”;

8 (3) in subparagraph (C) of paragraph (1), as
9 redesignated by paragraphs (1) and (2) of this sec-
10 tion, by striking “or” at the end;

11 (4) in subparagraph (D) of paragraph (1), as
12 so redesignated, by striking the period at the end
13 and inserting “; or”; and

14 (5) by adding at the end the following:

15 “(E) the change from the program to another
16 program is at the same educational institution and
17 such educational institution determines that the new
18 program is suitable to the aptitudes, interests, and
19 abilities of the veteran or eligible person and cer-
20 tifies to the Secretary the enrollment of the veteran
21 or eligible person in the new program.

22 “(2) A veteran or eligible person undergoing a change
23 from one program of education to another program of edu-
24 cation as described in paragraph (1)(E) shall not be re-
25 quired to apply to the Secretary for approval of such
26 change.”.

1 **SEC. 315. REPEAL OF CERTIFICATION REQUIREMENT WITH**
 2 **RESPECT TO APPLICATIONS FOR APPROVAL**
 3 **OF SELF-EMPLOYMENT ON-JOB TRAINING.**

4 Section 3677(b) is amended by adding at the end the
 5 following new paragraph:

6 “(3) The requirement for certification under para-
 7 graph (1) shall not apply to training described in section
 8 3452(e)(2) of this title.”.

9 **Subtitle C—Other Matters**

10 **SEC. 321. DESIGNATION OF THE OFFICE OF SMALL BUSI-**
 11 **NESS PROGRAMS OF THE DEPARTMENT OF**
 12 **VETERANS AFFAIRS.**

13 (a) DESIGNATION.—The Office of Small Business
 14 Programs of the Department of Veterans Affairs is the
 15 office that is established within the Office of the Secretary
 16 of Veterans Affairs under section 15(k) of the Small Busi-
 17 ness Act (15 U.S.C. 644(k)).

18 (b) HEAD.—The Director of Small Business Pro-
 19 grams is the head of the Office of Small Business Pro-
 20 grams of the Department of Veterans Affairs.

21 **TITLE IV—COURT MATTERS**

22 **SEC. 401. TEMPORARY INCREASE IN NUMBER OF AUTHOR-**
 23 **IZED JUDGES OF THE UNITED STATES COURT**
 24 **OF APPEALS FOR VETERANS CLAIMS.**

25 Section 7253 is amended by adding at the end the
 26 following new subsection:

1 “(i) **ADDITIONAL TEMPORARY EXPANSION OF**
2 **COURT.**—(1) Subject to paragraph (2), effective as of De-
3 cember 31, 2009, the authorized number of judges of the
4 Court specified in subsection (a) is increased by two.

5 “(2) Effective as of January 1, 2013, an appointment
6 may not be made to the Court if the appointment would
7 result in there being more judges of the Court than the
8 authorized number of judges of the Court specified in sub-
9 section (a).”.

10 **SEC. 402. PROTECTION OF PRIVACY AND SECURITY CON-**
11 **CERNS IN COURT RECORDS.**

12 Section 7268 is amended by adding at the end the
13 following new subsection:

14 “(c)(1) The Court shall prescribe rules, in accordance
15 with section 7264(a) of this title, to protect privacy and
16 security concerns relating to all filing of documents and
17 the public availability under this subsection of documents
18 retained by the Court or filed electronically with the
19 Court.

20 “(2) The rules prescribed under paragraph (1) shall
21 be consistent to the extent practicable with rules address-
22 ing privacy and security issues throughout the Federal
23 courts.

24 “(3) The rules prescribed under paragraph (1) shall
25 take into consideration best practices in Federal and State

1 courts to protect private information or otherwise main-
 2 tain necessary information security.”.

3 **SEC. 403. RECALL OF RETIRED JUDGES OF THE UNITED**
 4 **STATES COURT OF APPEALS FOR VETERANS**
 5 **CLAIMS.**

6 (a) REPEAL OF LIMIT ON SERVICE OF RECALLED
 7 RETIRED JUDGES WHO VOLUNTARILY SERVE MORE
 8 THAN 90 DAYS.—Section 7257(b)(2) is amended by strik-
 9 ing “or for more than a total of 180 days (or the equiva-
 10 lent) during any calendar year”.

11 (b) NEW JUDGES RECALLED AFTER RETIREMENT
 12 RECEIVE PAY OF CURRENT JUDGES ONLY DURING PE-
 13 RIOD OF RECALL.—

14 (1) IN GENERAL.—Section 7296(c) is amended
 15 by striking paragraph (1) and inserting the following
 16 new paragraph:

17 “(1)(A) A judge who is appointed on or after the date
 18 of the enactment of the Veterans’ Benefits Improvement
 19 Act of 2008 and who retires under subsection (b) and
 20 elects under subsection (d) to receive retired pay under
 21 this subsection shall (except as provided in paragraph (2))
 22 receive retired pay as follows:

23 “(i) In the case of a judge who is a recall-eligi-
 24 ble retired judge under section 7257 of this title, the
 25 retired pay of the judge shall (subject to section

1 7257(d)(2) of this title) be the rate of pay applicable
2 to that judge at the time of retirement, as adjusted
3 from time to time under subsection (f)(3).

4 “(ii) In the case of a judge other than a recall-
5 eligible retired judge, the retired pay of the judge
6 shall be the rate of pay applicable to that judge at
7 the time of retirement.

8 “(B) A judge who retired before the date of the en-
9 actment of the Veterans’ Benefits Improvement Act of
10 2008 and elected under subsection (d) to receive retired
11 pay under this subsection, or a judge who retires under
12 subsection (b) and elects under subsection (d) to receive
13 retired pay under this subsection, shall (except as provided
14 in paragraph (2)) receive retired pay as follows:

15 “(i) In the case of a judge who is a recall-eli-
16 gible retired judge under section 7257 of this title or
17 who was a recall-eligible retired judge under that
18 section and was removed from recall status under
19 subsection (b)(4) of that section by reason of dis-
20 ability, the retired pay of the judge shall be the pay
21 of a judge of the court.

22 “(ii) In the case of a judge who at the time of
23 retirement did not provide notice under section 7257
24 of this title of availability for service in a recalled
25 status, the retired pay of the judge shall be the rate

1 of pay applicable to that judge at the time of retire-
2 ment.

3 “(iii) In the case of a judge who was a recall-
4 eligible retired judge under section 7257 of this title
5 and was removed from recall status under subsection
6 (b)(3) of that section, the retired pay of the judge
7 shall be the pay of the judge at the time of the re-
8 moval from recall status.”.

9 (2) COST-OF-LIVING ADJUSTMENT FOR RE-
10 TIRE D PAY OF NEW JUDGES WHO ARE RECALL-ELI-
11 GIBLE.—Section 7296(f)(3)(A) is amended by strik-
12 ing “paragraph (2) of subsection (c)” and inserting
13 “paragraph (1)(A)(i) or (2) of subsection (c)”.

14 (3) PAY DURING PERIOD OF RECALL.—Sub-
15 section (d) of section 7257 is amended to read as
16 follows:

17 “(d)(1) The pay of a recall-eligible retired judge to
18 whom section 7296(c)(1)(B) of this title applies is the pay
19 specified in that section.

20 “(2) A judge who is recalled under this section who
21 retired under chapter 83 or 84 of title 5 or to whom sec-
22 tion 7296(c)(1)(A) of this title applies shall be paid, dur-
23 ing the period for which the judge serves in recall status,
24 pay at the rate of pay in effect under section 7253(e) of
25 this title for a judge performing active service, less the

1 amount of the judge’s annuity under the applicable provi-
2 sions of chapter 83 or 84 of title 5 or the judge’s annuity
3 under section 7296(c)(1)(A) of this title, whichever is ap-
4 plicable.”.

5 (4) NOTICE.—The last sentence of section
6 7257(a)(1) is amended to read as follows: “Such a
7 notice provided by a retired judge to whom section
8 7296(c)(1)(B) of this title applies is irrevocable.”.

9 (c) LIMITATION ON INVOLUNTARY RECALLS.—Sec-
10 tion 7257(b)(3) is amended by adding at the end the fol-
11 lowing new sentence: “This paragraph shall not apply to
12 a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B)
13 of this title applies and who has, in the aggregate, served
14 at least five years of recalled service on the Court under
15 this section.”.

16 **SEC. 404. ANNUAL REPORTS ON WORKLOAD OF THE**
17 **UNITED STATES COURT OF APPEALS FOR**
18 **VETERANS CLAIMS.**

19 (a) IN GENERAL.—Subchapter III of chapter 72 is
20 amended by adding at the end the following new section:

21 **“§ 7288. Annual report**

22 “(a) IN GENERAL.—The chief judge of the Court
23 shall submit to the appropriate committees of Congress
24 each year a report summarizing the workload of the Court
25 for the fiscal year ending during the preceding year.

1 “(b) ELEMENTS.—Each report under subsection (a)
2 shall include, with respect to the fiscal year covered by
3 such report, the following information:

4 “(1) The number of appeals filed with the
5 Court.

6 “(2) The number of petitions filed with the
7 Court.

8 “(3) The number of applications filed with the
9 Court under section 2412 of title 28.

10 “(4) The total number of dispositions by each
11 of the following:

12 “(A) The Court as a whole.

13 “(B) The Clerk of the Court.

14 “(C) A single judge of the Court.

15 “(D) A multi-judge panel of the Court.

16 “(E) The full Court.

17 “(5) The number of each type of disposition by
18 the Court, including settlement, affirmation, re-
19 mand, vacation, dismissal, reversal, grant, and de-
20 nial.

21 “(6) The median time from filing an appeal to
22 disposition by each of the following:

23 “(A) The Court as a whole.

24 “(B) The Clerk of the Court.

25 “(C) A single judge of the Court.

1 “(D) Multiple judges of the Court (includ-
2 ing a multi-judge panel of the Court or the full
3 Court).

4 “(7) The median time from filing a petition to
5 disposition by the Court.

6 “(8) The median time from filing an application
7 under section 2412 of title 28 to disposition by the
8 Court.

9 “(9) The median time from the completion of
10 briefing requirements by the parties to disposition by
11 the Court.

12 “(10) The number of oral arguments before the
13 Court.

14 “(11) The number of cases appealed to the
15 United States Court of Appeals for the Federal Cir-
16 cuit.

17 “(12) The number and status of appeals and
18 petitions pending with the Court and of applications
19 described in paragraph (3) as of the end of such fis-
20 cal year.

21 “(13) The number of cases pending with the
22 Court more than 18 months as of the end of such
23 fiscal year.

24 “(14) A summary of any service performed for
25 the Court by a recalled retired judge of the Court.

1 “(15) An assessment of the workload of each
2 judge of the Court, including consideration of the
3 following:

4 “(A) The time required of each judge for
5 disposition of each type of case.

6 “(B) The number of cases reviewed by the
7 Court.

8 “(C) The average workload of other Fed-
9 eral judges.

10 “(c) APPROPRIATE COMMITTEES OF CONGRESS DE-
11 FINED.—In this section, the term ‘appropriate committees
12 of Congress’ means—

13 “(1) the Committee on Veterans’ Affairs of the
14 Senate; and

15 “(2) the Committee on Veterans’ Affairs of the
16 House of Representatives.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 72 is amended by inserting
19 after the item related to section 7287 the following new
20 item:

 “7288. Annual report.”.

1 **TITLE V—INSURANCE MATTERS**

2 **SEC. 501. REPORT ON INCLUSION OF SEVERE AND ACUTE**
3 **POST TRAUMATIC STRESS DISORDER AMONG**
4 **CONDITIONS COVERED BY TRAUMATIC IN-**
5 **JURY PROTECTION COVERAGE UNDER**
6 **SERVICEMEMBERS' GROUP LIFE INSURANCE.**

7 (a) REPORT REQUIRED.—Not later than 180 days
8 after the date of the enactment of this Act, the Secretary
9 of Veterans Affairs shall, in consultation with the Sec-
10 retary of Defense, submit to the appropriate committees
11 of Congress a report setting forth the assessment of the
12 Secretary of Veterans Affairs as to the feasibility and ad-
13 visability of including severe and acute Post Traumatic
14 Stress Disorder (PTSD) among the conditions covered by
15 traumatic injury protection coverage under
16 Servicemembers' Group Life Insurance under section
17 1980A of title 38, United States Code.

18 (b) CONSIDERATIONS.—In preparing the assessment
19 required by subsection (a), the Secretary of Veterans Af-
20 fairs shall consider the following:

21 (1) The advisability of providing traumatic in-
22 jury protection coverage under Servicemembers'
23 Group Life Insurance under section 1980A of title
24 38, United States Code, for Post Traumatic Stress
25 Disorder incurred by a member of the Armed Forces

1 as a direct result of military service in a combat
2 zone that renders the member unable to carry out
3 the daily activities of living after the member is dis-
4 charged or released from military service.

5 (2) The unique circumstances of military serv-
6 ice, and the unique experiences of members of the
7 Armed Forces who are deployed to a combat zone.

8 (3) Any financial strain incurred by family
9 members of members of the Armed Forces who suf-
10 fer severe and acute from Post Traumatic Stress
11 Disorder.

12 (4) The recovery time, and any particular dif-
13 ficulty of the recovery process, for recovery from se-
14 vere and acute Post Traumatic Stress Disorder.

15 (5) Such other matters as the Secretary con-
16 siders appropriate.

17 (c) APPROPRIATE COMMITTEES OF CONGRESS DE-
18 FINED.—In this section, the term “appropriate commit-
19 tees of Congress” means—

20 (1) the Committee on Armed Services and the
21 Committee on Veterans’ Affairs of the Senate; and

22 (2) the Committee on Armed Services and the
23 Committee on Veterans’ Affairs of the House of
24 Representatives.

1 **SEC. 502. TREATMENT OF STILLBORN CHILDREN AS INSUR-**
2 **ABLE DEPENDENTS UNDER**
3 **SERVICEMEMBERS' GROUP LIFE INSURANCE.**

4 (a) TREATMENT.—Section 1965(10) is amended by
5 adding at the end the following new subparagraph:

6 “(C) The member’s stillborn child.”.

7 (b) CONFORMING AMENDMENT.—Section 101(4)(A)
8 is amended by striking “section 1965(10)(B)” in the mat-
9 ter preceding clause (i) and inserting “subparagraph (B)
10 or (C) of section 1965(10)”.

11 **SEC. 503. OTHER ENHANCEMENTS OF SERVICEMEMBERS’**
12 **GROUP LIFE INSURANCE COVERAGE.**

13 (a) EXPANSION OF SERVICEMEMBERS’ GROUP LIFE
14 INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDI-
15 VIDUAL READY RESERVE.—

16 (1) IN GENERAL.—Section 1967(a)(1)(C) is
17 amended by striking “section 1965(5)(B) of this
18 title” and inserting “subparagraph (B) or (C) of
19 section 1965(5) of this title”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 1967(a)(5)(C) is amended by
22 striking “section 1965(5)(B) of this title” and
23 inserting “subparagraph (B) or (C) of section
24 1965(5) of this title”; and

25 (B) Section 1969(g)(1)(B) is amended by
26 striking “section 1965(5)(B) of this title” and

1 inserting “subparagraph (B) or (C) of section
2 1965(5) of this title”.

3 (b) REDUCTION IN PERIOD OF DEPENDENTS’ COV-
4 ERAGE AFTER MEMBER SEPARATES.—Section
5 1968(a)(5)(B)(ii) is amended by striking “120 days
6 after”.

7 (c) AUTHORITY TO SET PREMIUMS FOR READY RE-
8 SERVISTS’ SPOUSES.—Section 1969(g)(1)(B) is amended
9 by striking “(which shall be the same for all such mem-
10 bers)”.

11 (d) FORFEITURE OF VETERANS’ GROUP LIFE INSUR-
12 ANCE.—Section 1973 is amended by striking “under this
13 subchapter” and inserting “and Veterans’ Group Life In-
14 surance under this subchapter”.

15 (e) EFFECTIVE AND APPLICABILITY DATES.—

16 (1) The amendments made by subsection (a)
17 shall take effect on the date of the enactment of this
18 Act.

19 (2) The amendment made by subsection (b)
20 shall apply with respect to Servicemembers’ Group
21 Life Insurance coverage for an insurable dependent
22 of a member, as defined in section 1965(10) of title
23 38, United States Code (as amended by section 502
24 of this Act), that begins on or after the date of the
25 enactment of this Act.

1 (3) The amendment made by subsection (c)
2 shall take effect as if enacted on June 5, 2001, im-
3 mediately after the enactment of the Veterans' Sur-
4 vivor Benefits Improvements Act of 2001 (Public
5 Law 107–14; 115 Stat. 25).

6 (4) The amendment made by subsection (d)
7 shall apply with respect to any act of mutiny, trea-
8 son, spying, or desertion committed on or after the
9 date of the enactment of this Act for which a person
10 is found guilty, or with respect to refusal because of
11 conscientious objections to perform service in, or to
12 wear the uniform of, the Armed Forces on or after
13 the date of the enactment of this Act.

14 **TITLE VI—OTHER MATTERS**

15 **SEC. 601. AUTHORITY FOR SUSPENSION OR TERMINATION** 16 **OF CLAIMS OF THE UNITED STATES AGAINST** 17 **INDIVIDUALS WHO DIED WHILE SERVING ON** 18 **ACTIVE DUTY IN THE ARMED FORCES.**

19 (a) **AUTHORITY.**—Section 3711(f) of title 31, United
20 States Code, is amended—

21 (1) by redesignating paragraph (3) as para-
22 graph (4); and

23 (2) by inserting after paragraph (2) the fol-
24 lowing new paragraph (3):

1 “(3) The Secretary of Veterans Affairs may suspend
2 or terminate an action by the Secretary under subsection
3 (a) to collect a claim against the estate of a person who
4 died while serving on active duty as a member of the
5 Army, Navy, Air Force, Marine Corps, or Coast Guard
6 during a period when the Coast Guard is operating as a
7 service in the Navy if the Secretary determines that, under
8 the circumstances applicable with respect to the deceased
9 person, it is appropriate to do so.”.

10 (b) **EQUITABLE REFUND OF AMOUNTS COL-**
11 **LECTED.**—The Secretary of Veterans Affairs may refund
12 to the estate of such person any amount collected by the
13 Secretary (whether before, on, or after the date of the en-
14 actment of this Act) from a person who died while serving
15 on active duty as a member of the Armed Forces if the
16 Secretary determines that, under the circumstances appli-
17 cable with respect to the deceased person, it is appropriate
18 to do so.

19 **SEC. 602. MEMORIAL HEADSTONES AND MARKERS FOR DE-**
20 **CEASED REMARRIED SURVIVING SPOUSES OF**
21 **VETERANS.**

22 (a) **IN GENERAL.**—Section 2306(b)(4)(B) is amend-
23 ed by striking “an unremarried surviving spouse whose
24 subsequent remarriage was terminated by death or di-

1 voice” and inserting “a surviving spouse who had a subse-
2 quent remarriage”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to deaths occurring on or after the
5 date of the enactment of this Act.

6 **SEC. 603. THREE-YEAR EXTENSION OF AUTHORITY TO**
7 **CARRY OUT INCOME VERIFICATION.**

8 Section 5317(g) is amended by striking “September
9 30, 2008” and inserting “September 30, 2011”.

10 **SEC. 604. THREE-YEAR EXTENSION OF TEMPORARY AU-**
11 **THORITY FOR THE PERFORMANCE OF MED-**
12 **ICAL DISABILITY EXAMINATIONS BY CON-**
13 **TRACT PHYSICIANS.**

14 Section 704(c) of the Veterans Benefits Act of 2003
15 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101
16 note) is amended by striking “December 31, 2009” and
17 inserting “December 31, 2012”.

Passed the Senate September 16, 2008.

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

S. 3023

AN ACT

To amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.