

- “1206c. Applicability of subchapter: members on temporary disability retired list as of implementation of reform of disability retirement system.
- “1206d. Retirement.
- “1206e. Temporary disability retired list.
- “1206f. Treatment of retired pay.
- “1206g. Determinations of unfitness.
- “1206h. Definitions.”;

and  
 (4) by inserting after the subchapter heading 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.”

(c) ELIGIBILITY FOR DISABILITY RETIREMENT FOR PRE-EXISTING CONDITION AFTER EIGHT YEARS OF SERVICE.—Section 1207a(a) of title 10, United States Code, is amended by striking “or 1203” and inserting “1203, 1206b, 1206c, 1206d, or 1206e”.

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

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

(e) CONFORMING AMENDMENTS RELATING TO RETIRED PAY.—

(1) RECOMPUTATION OF RETIRED PAY TO REFLECT LATER ACTIVE DUTY.—Sections 1402(b) and 1402a(b) of title 10, United States Code, are each amended by inserting “(as in effect before the effective date of the reform of the disability retirement system for members of the armed forces (as determined in accordance with section 1206a(c) of this title) or subchapter I of chapter 61 of this title (as in effect after such effective date), as applicable” after “chapter 61 of this title”.

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

column in the table in section 1406(b)(1) of such title designated “For a member entitled to retired pay under section:” are amended to read as follows:

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

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

(A) in subsection (c)—  
 (i) in paragraph (1), by striking “other than section 1204 or 1205 or section 12731 of this title” and inserting “(other than section 1204, 1205, or 12731 of this title, or section 1206b, 1206c, 1206d, or 1206e of this title for nonregular service)”;

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

(iii) in paragraph (3)—  
 (I) by striking “section 1201 or 1202” and inserting “section 1201, 1202, 1206b, 1206c, 1206d, or 1206e”; and

(II) by inserting “or under section 1206b, 1206c, 1206d, or 1206e of this title for nonregular service” before the period; and

(B) in subsection (d)—  
 (i) in paragraph (2), by inserting “, or under section 1206b, 1206c, 1206d, or 1206e of this title for nonregular service,” after “section 1204 or 1205 of this title”; and

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

(4) GRADE ON RETIREMENT FOR PHYSICAL DISABILITY.—Section 1372 of such title is amended—

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

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

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is one year after the date of the enactment of this Act.

**SEC. 1702. ELIGIBILITY FOR MEDICAL AND DENTAL CARE OF MEMBERS OF THE ARMED FORCES RETIRED AFTER IMPLEMENTATION OF REFORM OF DISABILITY RETIREMENT SYSTEM.**

(a) ELIGIBILITY.—Section 1074(b) of title 10, United States Code, is amended—

(1) in paragraph (1) by striking “Under joint regulations” and inserting “Subject to paragraphs (2) through (5), under joint regulations”; and

(2) by adding at the end the following new paragraphs:

“(3) A member or former member of the armed forces entitled to retired pay under subchapter II of chapter 61 of this title shall be given medical and dental care in accordance with paragraph (1), subject to the limitations and conditions specified in that paragraph, for a period of three years commencing on the date the member is retired under section 1206d of this title or elects under section 1206b of this title to be retired under that subchapter, as applicable.

“(4)(A) A member or former member of the armed forces described in subparagraph (B) shall be given medical and dental care in accordance with paragraph (1), subject to the limitations and conditions specified in that paragraph.

“(B) A member or former member of the armed forces described in this subparagraph is any member or former member of the armed forces entitled to retired pay under subchapter II of chapter 61 of this title who—

“(i) has at least eight years of service computed under section 1208 of this title;

“(ii) during the three-year period commencing on the date the member is retired under section 1206d of this title, is determined by the Secretary of Veterans Affairs to have a service-connected disability or disabilities rated at 100 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

“(iii) during service in the armed forces—  
 “(I) suffered a qualifying loss insured under section 1980A of title 38;

“(II) otherwise suffered the permanent loss of use of a hand or foot; or

“(III) received a total replacement of a joint.

“(5)(A) Medical and dental care may also be given in accordance with paragraph (1) to such other members or former members of the armed forces entitled to retired pay under subchapter II of chapter 61 of this title as the Secretary of Defense shall specify in regulations prescribed under this paragraph.

“(B) The provision of medical and dental care under this paragraph shall be subject to the limitations and conditions specified in paragraph (1), except that such charges and fees may be collected in connection with the provision of such care as the Secretary of Defense shall prescribe. In prescribing such charges and fees, the Secretary may specify a range of charges and fees that take into account length of service in the armed forces, nature and degree of severity of service-connected disability, and other factors in such manner as the Secretary considers appropriate for purposes of this paragraph.”.

(b) REPORT ON ELIGIBILITY OF ADDITIONAL RETIRED MEMBERS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth the following:

(1) The recommendations of the Secretary as to which members and former members of the Armed Forces retired under subchapter II of chapter 61 of title 10, United States Code (as added by section 1701(a) of this Act), and not eligible for medical and dental care under section 1074(b) of title 10, United States Code (as amended by subsection (a)), on a life-time basis should be eligible for such care on a life-time basis.

(2) An assessment by the Secretary of the feasibility and advisability of providing eligibility for medical and dental care under section 1704(b) of title 10 United States Code, on a life-time basis to all members and former members of the Armed Forces retired under subchapter II of chapter 61 of title 10, United States Code (as so added).

**NOTICE OF HEARING**

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, September 18 at 9:30 a.m. in room 562 of the Dirksen Senate Office Building to conduct a hearing to examine Federal declinations to prosecute crimes in Indian Country.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

**ORDERS FOR TUESDAY, SEPTEMBER 16, 2008**

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it