

110TH CONGRESS
2D SESSION

H. R. 6236

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate, consistent, and timely delivery of compensation to veterans and their families and survivors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2008

Mr. CHABOT (for himself, Mr. LAMBORN, Mr. JORDAN of Ohio, Mr. HOBSON, and Mr. TURNER) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate, consistent, and timely delivery of compensation to veterans and their families and survivors, 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 “Veterans Disability Benefits Claims Modernization Act
4 of 2008”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Readjustment of schedule for rating disabilities.
- Sec. 3. Study on employee work credit system of Veterans Benefits Administration.
- Sec. 4. Study on work management system.
- Sec. 5. Certification and training of employees of Veterans Benefits Administration responsible for processing claims.
- Sec. 6. Enhancement of use of information technology at Veterans Benefits Administration.
- Sec. 7. Treatment of claims upon death of claimant.

7 **SEC. 2. READJUSTMENT OF SCHEDULE FOR RATING DIS-**
8 **ABILITIES.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The Secretary of Veterans
11 Affairs shall conduct a study on adjusting the sched-
12 ule for rating disabilities adopted and applied by the
13 Secretary under section 1155 of title 38, United
14 States Code, so as to base the schedule on stand-
15 ards, practices, and codes in common use by the
16 medical, mental health, and disability professions
17 that are current as of the date of the enactment of
18 this Act.

19 (2) CONTENTS.—In conducting the study under
20 this subsection, the Secretary shall—

1 (A) determine how the schedule could be
2 adjusted to take into account the loss of quality
3 of life and loss of earnings that result from spe-
4 cific disabilities;

5 (B) examine the nature of the disabilities
6 for which disability compensation is payable
7 under laws other than laws administered by the
8 Secretary;

9 (C) examine whether disparities exist be-
10 tween the rating of physical and mental disabil-
11 ities, especially with respect to how the severity
12 of mental disabilities should be adjudicated to
13 ensure parity with physical disabilities whereby
14 a veteran can be rated totally disabled while
15 maintaining some level of employment;

16 (D) measure the effect of disabilities on
17 the psychological states, physical integrity, and
18 social adaptability of veterans with such disabil-
19 ities; and

20 (E) examine the effect of a veteran's injury
21 or combination of injuries on—

22 (i) the average loss of the veteran's
23 earnings capacity, including the veteran's
24 inability to work in certain occupations;

1 (ii) the veteran's quality of life, in-
2 cluding activities of independent living, rec-
3 reational and community activities, and
4 personal relationships, including the inabil-
5 ity to participate in favorite activities, so-
6 cial problems related to disfigurement or
7 cognitive difficulties, and the need to spend
8 increased amounts of time performing ac-
9 tivities of daily living; and

10 (iii) the extent to which benefits for
11 veterans may be used to encourage vet-
12 erans to seek and undergo vocational reha-
13 bilitation.

14 (3) CONSULTATION.—In conducting the study
15 under this subsection, the Secretary shall consult
16 with appropriate public and private entities, agen-
17 cies, and veterans service organizations, and shall
18 employ consultants.

19 (4) DEADLINE FOR COMPLETION.—The Sec-
20 retary shall complete the study under this subsection
21 by not later than 180 days after the date of the en-
22 actment of this Act.

23 (5) REPORT TO CONGRESS.—Not later than 60
24 days after the date that the study under this sub-
25 section is completed, the Secretary shall submit to

1 Congress a report on the study. The report shall in-
2 clude—

3 (A) the results of the study on quality of
4 life and the payment of compensation for serv-
5 ice-connected disabilities for which the Sec-
6 retary entered into a contract on January 28,
7 2008;

8 (B) the Secretary’s findings and conclu-
9 sions with respect to adjusting the schedule for
10 rating disabilities adopted and applied by the
11 Secretary under section 1155 of title 38, United
12 States Code, to account for the loss of quality
13 of life and loss of earnings that result from spe-
14 cific disabilities;

15 (C) the Secretary’s findings and conclu-
16 sions with respect to—

17 (i) the report of the Veterans’ Dis-
18 ability Benefits Commission;

19 (ii) the report of the President’s Com-
20 mission on the Care for America’s Return-
21 ing Wounded Warriors;

22 (iii) the report of the Institute of
23 Medicine entitled “A 21st Century System
24 for Evaluating Veterans for Disability
25 Benefits”; and

1 (iv) any other independent or advisory
2 commission report on matters relating to
3 such schedule that the Secretary deter-
4 mines is appropriate;

5 (D) the Secretary's recommendations with
6 respect to the appropriate disabilities for inclu-
7 sion in the schedule;

8 (E) the Secretary's recommendations with
9 respect to the amount of compensation payable
10 to veterans for the loss of quality of life and the
11 basis for such recommendations;

12 (F) the Secretary's recommendations with
13 respect to the amount of compensation payable
14 to veterans for average loss of earnings capacity
15 and the appropriate standards for determining
16 whether a disability has caused a veteran to
17 incur a loss of earnings capacity;

18 (G) the Secretary's assessment of the ef-
19 fect of the treatment of mental disabilities
20 under the schedule for rating disabilities, as in
21 effect on the date of the enactment of this Act;
22 and

23 (H) the Secretary's determination with re-
24 spect to whether the regulations prescribed pur-
25 suant to section 1154 of title 38, United States

1 Code, are consistent with providing, to the max-
2 imum extent possible, the benefit of the doubt
3 to veterans covered by that section in the ab-
4 sence of official military records pertaining to
5 the service-connection of a veteran's disability,
6 and in particular, of post-traumatic stress dis-
7 order, when a determination of service-connec-
8 tion would be consistent with the duties, condi-
9 tions, and hardships of service in the Armed
10 Forces.

11 (b) SUBMISSION OF PLAN.—

12 (1) PLAN REQUIRED.—Not later than 120 days
13 after the date on which the Secretary submits the
14 report required under subsection (a)(5), the Sec-
15 retary shall submit to Congress a plan to readjust
16 the schedule for rating disabilities adopted and ap-
17 plied by the Secretary under section 1155 of title 38,
18 United States Code. In developing the plan required
19 under this subsection, the Secretary shall consider
20 the report submitted under subsection (a)(5) and
21 shall provide for the readjustment of such schedule
22 for rating disabilities to—

23 (A) align the schedule with medical con-
24 cepts considered best practices as of the date of
25 the enactment of this Act, including those pro-

1 vided in the Current Procedural Terminology
2 Manual, International Classification of Dis-
3 eases, the Diagnostic and Statistical Manual of
4 Mental Disorders, and applicable American
5 Medical Association Guides;

6 (B) bridge the gap between the schedule,
7 as in effect on the date of the enactment of this
8 Act, and medical understandings, as of such
9 date, of injuries and diseases and the affects of
10 such injuries and diseases on the ability of a
11 person suffering from them to function;

12 (C) prioritize such readjustment with re-
13 spect to post-traumatic stress disorder, other
14 mental disorders, neurological disorders, trau-
15 matic brain injury, orthopedic disabilities, and
16 digestive disabilities;

17 (D) ensure that the schedule is automated
18 in accordance with the review and comprehen-
19 sive plan of the Secretary under section 110 of
20 this Act; and

21 (E) ensure that a transition plan is pro-
22 vided to ease the transition from the schedule
23 for rating disabilities, as in effect on the date
24 of the enactment of this Act, to the implemen-
25 tation of the schedule for rating disabilities, as

1 proposed to be readjusted by the plan under
2 this subsection.

3 (2) **TIMELINE FOR READJUSTMENT.**—The Sec-
4 retary shall include in the plan submitted under the
5 subsection a proposed timeline for when the Sec-
6 retary intends to readjust the schedule. Such pro-
7 posed timeline may not exceed three years.

8 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
9 are authorized to be appropriated such sums as may be
10 necessary to carry out subsections (a) and (b).

11 (d) **ADVISORY COMMITTEE ON DISABILITY COM-**
12 **PENSATION.**—

13 (1) **ESTABLISHMENT.**—Subchapter III of chap-
14 ter 5 of title 38, United States Code, is amended by
15 adding at the end the following new section:

16 **“§ 546. Advisory Committee on Disability Compensa-**
17 **tion**

18 “(a) **ESTABLISHMENT.**—(1) There is in the Depart-
19 ment the Advisory Committee on Disability Compensation
20 (in this section referred to as the ‘Committee’).

21 “(2) The Committee shall consist of not more than
22 18 members appointed by the Secretary from among indi-
23 viduals who—

24 “(A) have demonstrated significant civic or pro-
25 fessional achievement; and

1 “(B) have experience with the provision of dis-
2 ability compensation by the Department or are lead-
3 ing medical or scientific experts in relevant fields.

4 “(3) The Secretary shall seek to ensure that members
5 appointed to the Committee include individuals from a
6 wide variety of geographic areas and ethnic backgrounds,
7 individuals from veterans service organizations, individ-
8 uals with combat experience, and women.

9 “(4) The Secretary shall determine the terms of serv-
10 ice and pay and allowances of the members of the Com-
11 mittee, except that a term of service may not exceed two
12 years. The Secretary may reappoint any member for addi-
13 tional terms of service.

14 “(b) RESPONSIBILITIES OF COMMITTEE.—(1) The
15 Secretary, on a regular basis, shall consult with and seek
16 the advice of the Committee with respect to the mainte-
17 nance and periodic readjustment of the schedule for rating
18 disabilities under section 1155.

19 “(2) In providing advice to the Secretary under this
20 subsection, the Committee shall—

21 “(A) assemble and review relevant information
22 relating to the needs of veterans with disabilities;

23 “(B) provide information relating to the nature
24 and character of disabilities arising from service in
25 the Armed Forces;

1 “(C) provide an on-going assessment of the ef-
2 fectiveness of the schedule for rating disabilities; and

3 “(D) provide on-going advice on the most ap-
4 propriate means of responding to the needs of vet-
5 erans relating to disability compensation in the fu-
6 ture.

7 “(c) ANNUAL REPORT.—(1) Not later than March 31
8 of each year, the Committee shall submit to the Secretary
9 a report on the programs and activities of the Department
10 that relate to the payment of disability compensation.
11 Each such report shall include—

12 “(A) an assessment of the needs of vet-
13 erans with respect to disability compensation;

14 “(B) a review of the programs and activi-
15 ties of the Department designed to meet such
16 needs; and

17 “(C) such recommendations (including rec-
18 ommendations for administrative and legislative
19 action) as the Committee considers appropriate.

20 “(2) Not later than 90 days after the date of the re-
21 ceipt of a report under paragraph (1), the Secretary shall
22 transmit to the Committees on Veterans’ Affairs of the
23 Senate and House of Representatives a copy of the report,
24 together with any comments and recommendations con-

1 cerning the report that the Secretary considers appro-
2 priate.

3 “(3) The Committee may also submit to the Sec-
4 retary such other reports and recommendations as the
5 Committee considers appropriate.

6 “(4) The Secretary shall submit with each annual re-
7 port submitted to the Congress pursuant to section 529
8 of this title a summary of all reports and recommendations
9 of the Committee submitted to the Secretary since the pre-
10 vious annual report of the Secretary submitted pursuant
11 to that section.

12 “(d) APPLICABILITY OF FEDERAL ADVISORY COM-
13 MITTEE ACT.—(1) Except as provided in paragraph (2),
14 the provisions of the Federal Advisory Committee Act (5
15 U.S.C. App.) shall apply to the activities of the Committee
16 under this section.

17 “(2) Section 14 of such Act shall not apply to the
18 Committee.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-
20 tions at the beginning of such chapter is amended
21 by adding at the end of the items relating to sub-
22 chapter III the following new item:

“546. Advisory Committee on Disability Compensation.”.

1 **SEC. 3. STUDY ON EMPLOYEE WORK CREDIT SYSTEM OF**
2 **VETERANS BENEFITS ADMINISTRATION.**

3 (a) **STUDY REQUIRED.**—The Secretary of Veterans
4 Affairs shall conduct a study on the employee work credit
5 system of the Veterans Benefits Administration of the De-
6 partment of Veterans Affairs, which is used to measure
7 the work production of employees of the Veterans Benefits
8 Administration.

9 (b) **CONTENTS OF STUDY.**—In carrying out the study
10 under subsection (a), the Secretary shall consider the ad-
11 visability of implementing—

12 (1) performance standards and accountability
13 measures to ensure that—

14 (A) claims for benefits under the laws ad-
15 ministered by the Secretary are processed in an
16 objective, accurate, consistent, and efficient
17 manner; and

18 (B) final decisions with respect to such
19 claims are consistent and issued within the av-
20 erage amount of time required to process a
21 claim, as identified by the Secretary in the most
22 recent annual report submitted by the Secretary
23 under section 529 of title 38, United States
24 Code;

1 (2) guidelines and procedures for the prompt
2 processing of such claims that are ready to rate
3 upon submission;

4 (3) guidelines and procedures for the processing
5 of such claims submitted by injured veterans, as de-
6 termined by the Secretary; and

7 (4) requirements for assessments of claims
8 processing at each regional office for the purpose of
9 producing lessons learned and best practices.

10 (c) REPORT TO CONGRESS.—Not later than 180 days
11 after the date of the enactment of this Act, the Secretary
12 shall submit to Congress a report on the study conducted
13 under this section and the progress of the Secretary in
14 implementing the new system for evaluating employees of
15 the Veterans Benefits Administration required under sub-
16 section (d).

17 (d) EVALUATION OF VETERANS BENEFITS ADMINIS-
18 TRATION EMPLOYEES.—

19 (1) NEW SYSTEM REQUIRED.—Not later than
20 180 days after the date on which the Secretary sub-
21 mits to Congress the report required under sub-
22 section (c), the Secretary shall establish a new sys-
23 tem for evaluating the work production of employees
24 of the Veterans Benefits Administration. Such sys-
25 tem shall—

1 (A) be based on the findings of the study
2 conducted by the Secretary under this section;

3 (B) focus on evaluating the accuracy and
4 quality of ratings decisions made by such em-
5 ployees; and

6 (C) not resemble or be based on any con-
7 cept on which the system in effect as of the
8 date of the enactment of this Act is based.

9 (2) SUSPENSION OF AWARD OF WORK CRED-
10 ITS.—If the Secretary of Veterans Affairs does not
11 implement the new system for evaluating work pro-
12 duction under paragraph (1), the Secretary may not
13 award a work credit to any employee of the Veterans
14 Benefits Administration until the Secretary has im-
15 plemented such system.

16 **SEC. 4. STUDY ON WORK MANAGEMENT SYSTEM.**

17 (a) IN GENERAL.—The Secretary of Veterans Affairs
18 shall conduct a study on the work management system
19 of the Veterans Benefits Administration of the Depart-
20 ment of Veterans Affairs, which is designed to improve
21 accountability, quality, and accuracy, and reduce the time
22 for processing claims for benefits under laws administered
23 by the Secretary that are adjudicated by the Veterans
24 Benefits Administration.

1 (b) CONTENTS OF STUDY.—In conducting the study
2 required under subsection (a), the Secretary shall con-
3 sider—

4 (1) accountability for claims adjudication out-
5 comes;

6 (2) the quality of claims adjudicated;

7 (3) a simplified process to adjudicate claims;

8 (4) the maximum use of information technology
9 applications;

10 (5) rules-based applications and tools for proc-
11 essing and adjudicating claims efficiently and effec-
12 tively; and

13 (6) methods of reducing the time required to
14 obtain information from outside sources.

15 (c) REPORT TO CONGRESS.—Not later than 180 days
16 after the date of the enactment of this Act, the Secretary
17 shall submit to Congress a report on the study conducted
18 under this section.

19 **SEC. 5. CERTIFICATION AND TRAINING OF EMPLOYEES OF**
20 **VETERANS BENEFITS ADMINISTRATION RE-**
21 **SPONSIBLE FOR PROCESSING CLAIMS.**

22 (a) EMPLOYEE CERTIFICATION REQUIRED.—

23 (1) IN GENERAL.—Subchapter II of chapter 77
24 of title 38, United States Code, is amended by add-
25 ing at the end the following new section:

1 **“§ 7735. Employee certification**

2 “(a) DEVELOPMENT OF CERTIFICATION EXAMINA-
3 TION.—The Secretary shall develop a certification exam-
4 ination for appropriate employees and managers of the
5 Veterans Benefits Administration who are responsible for
6 processing claims for benefits under the laws administered
7 by the Secretary. The Secretary shall develop such exam-
8 ination in consultation with examination development ex-
9 perts and such employees, employee representatives, man-
10 agers, and public and private entities, including veterans
11 service organizations and other service organizations, as
12 the Secretary determines appropriate.

13 “(b) EMPLOYEE AND MANAGER REQUIREMENT.—
14 The Secretary shall require appropriate employees and
15 managers of the Veterans Benefits Administration who
16 are responsible for processing claims for benefits under
17 the laws administered by the Secretary to take a certifi-
18 cation examination.

19 “(c) LIMITATION.—The Secretary may not satisfy
20 any requirement of this section through the use of any
21 certification examination or program that exists as of the
22 date of the enactment of the Veterans Disability Benefits
23 Claims Modernization Act of 2008.”.

24 (2) DEADLINES FOR IMPLEMENTATION.—The
25 Secretary of Veterans Affairs shall—

1 (A) develop the certification examination
2 required to be developed under section 7735 of
3 title 38, United States Code, as added by sub-
4 section (a), by not later than one year after the
5 date of the enactment of this Act; and

6 (B) implement procedures for admin-
7 istering the certification of employees under
8 such section and begin administering the certifi-
9 cation examination required under such section
10 by not later than 90 days after the date on
11 which the development of such certification ex-
12 amination is complete.

13 (3) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of such chapter is further
15 amended by adding at the end of the items relating
16 to subchapter II the following new item:

“7735. Employee certification.”.

17 (b) EVALUATION OF TRAINING.—

18 (1) EVALUATION REQUIRED.—The Secretary of
19 Veterans Affairs shall enter into a contract with a
20 private entity with experience evaluating training
21 processes, continuing education needs, and central-
22 ized training requirements, under which that entity
23 shall—

24 (A) conduct an evaluation of the items re-
25 quired to be included in the annual report of

1 the Secretary by section 7734 of title 38,
2 United States Code, that were included in the
3 last such report submitted before the date of
4 the enactment of this Act, that relate to the
5 training and performance assessment programs
6 of the Department of Veterans Affairs for em-
7 ployees of the Veterans Benefits Administration
8 who are responsible for matters relating to com-
9 pensation or pension benefits under the laws
10 administered by the Secretary; and

11 (B) submit, not later than 180 days after
12 the date of the enactment of this Act, submit
13 to the Secretary the results of such evaluation.

14 (2) SUBMISSION OF RESULTS TO CONGRESS.—

15 The Secretary shall include the results of the evalua-
16 tion required under paragraph (1) with the first an-
17 nual report required to be submitted to Congress
18 under section 529 of title 38, United States Code,
19 submitted after the date on which the Secretary re-
20 ceives such results.

21 (3) REPORT.—Not later than 180 days after
22 the date on which the Secretary submits the report
23 referred to in paragraph (2), the Secretary shall
24 submit to Congress a report on any actions the Sec-
25 retary has taken or plans to take in response to the

1 results of the evaluation required under paragraph
2 (1).

3 **SEC. 6. ENHANCEMENT OF USE OF INFORMATION TECH-**
4 **NOLOGY AT VETERANS BENEFITS ADMINIS-**
5 **TRATION.**

6 (a) REVIEW.—Not later than one year after the date
7 of the enactment of this Act, the Secretary of Veterans
8 Affairs shall conduct a study of—

9 (1) the use of information technology at the
10 Veterans Benefits Administration; and

11 (2) the best practices and lessons learned with-
12 in the Department of Veterans Affairs through the
13 use of the technology known as “VistA” and by
14 other Government entities and private sector organi-
15 zations who employ information technology and
16 automated decision support software in dealing with
17 veterans and veterans benefits.

18 (b) CONSULTATION.—In carrying out the study, the
19 Secretary of Veterans Affairs shall consult with informa-
20 tion technology designers at the Veterans Health Adminis-
21 tration, “VistA” managers, the Secretary of Defense, ap-
22 propriate officials of other Government agencies, appro-
23 priate individuals in the private and public sectors, vet-
24 erans service organizations, and other relevant service or-
25 ganizations.

1 (c) REPORT TO CONGRESS.—Not later than January
2 1, 2009, the Secretary shall submit to Congress a report
3 on the study under this section.

4 **SEC. 7. TREATMENT OF CLAIMS UPON DEATH OF CLAIM-**
5 **ANT.**

6 (a) IN GENERAL.—Section 5121 of title 38, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(d) SUBSTITUTION IN CASE OF DEATH OF CLAIM-
10 ANT.—

11 “(1) SUBSTITUTION.—If a veteran who is a
12 claimant dies while a claim for any benefit under a
13 law administered by the Secretary, or an appeal of
14 a decision with respect to such a claim, is pending
15 and awaiting adjudication, the person who would re-
16 ceive any accrued benefits due to the veteran under
17 subsection (a)(2) shall be treated as the claimant for
18 the purposes of processing the claim to completion,
19 except that such person may only submit new evi-
20 dence in support of the claim during the one-year
21 period beginning on the date of the death of the vet-
22 eran.

23 “(2) LIMITATION.—Only one person may be
24 treated as the claimant under paragraph (1).

1 “(3) DESIGNATION OF THIRD PARTY.—If the
2 person who would be eligible to be treated as the
3 claimant under paragraph (1) certifies to the Sec-
4 retary that the person does not want to be treated
5 as the claimant for such purposes, such person may
6 designate the person who would receive the benefits
7 under subsection (a)(2) upon the death of the person
8 who would otherwise be treated as the claimant
9 under paragraph (1) to be treated as the claimant
10 for the purposes of processing the claim to comple-
11 tion.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply with respect to the claim of any
14 veteran who dies on or after the date of the enactment
15 of this Act.

○