

109TH CONGRESS
1ST SESSION

S. 558

To amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2005

Mr. REID (for himself, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retired Pay Restora-
5 tion Act of 2005”.

6 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) For more than 100 years before 1999, all
9 disabled military retirees were required to fund their
10 own veterans’ disability compensation by forfeiting
11 one dollar of earned retired pay for each dollar re-
12 ceived in veterans’ disability compensation.

13 (2) Since 1999, Congress has enacted legisla-
14 tion every year to progressively expand eligibility cri-
15 teria for relief of the retired pay disability offset and
16 further reduce the burden of financial sacrifice on
17 disabled military retirees.

18 (3) Absent adequate funding to eliminate the
19 sacrifice for all disabled retirees, Congress has given
20 initial priority to easing financial inequities for the
21 most severely disabled and for combat-disabled retir-
22 ees.

23 (4) In the interest of maximizing eligibility
24 within cost constraints, Congress effectively has au-
25 thorized full concurrent receipt for all qualifying re-

12 (6) Congress is not content with the status quo.

(b) SENSE OF CONGRESS.—It is the sense of Congress that military retired pay earned by service and sacrifice in defending the Nation should not be reduced because a military retiree is also eligible for veterans' disability compensation awarded for service-connected disability.

24 (a) EXTENSION OF CONCURRENT RECEIPT AUTHOR-
25 ITY TO RETIREES WITH SERVICE-CONNECTED DISABIL-

1 ITIES RATED LESS THAN 50 PERCENT.—Section 1414 of
 2 title 10, United States Code, is amended by striking para-
 3 graph (2) of subsection (a).

4 (b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT
 5 OF RETIRED PAY AND VETERANS' DISABILITY COM-
 6 PENSATION.—Such section is further amended—

7 (1) in subsection (a), by striking the final sen-
 8 tence of paragraph (1);

9 (2) by striking subsection (c) and redesignating
 10 subsections (d) and (e) as subsections (c) and (d),
 11 respectively; and

12 (3) in subsection (d) (as so redesignated), by
 13 striking subparagraph (4).

14 (c) CLERICAL AMENDMENTS.—

15 (1) The heading for section 1414 of such title
 16 is amended to read as follows:

17 **“§ 1414. Members eligible for retired pay who are also**
 18 **eligible for veterans' disability compensa-**
 19 **tion: concurrent payment of retired pay**
 20 **and disability compensation”.**

21 (2) The item relating to such section in the
 22 table of sections at the beginning of chapter 71 of
 23 such title is amended to read as follows:

“1414. Members eligible for retired pay who are also eligible for veterans' dis-
 ability compensation: concurrent payment of retired pay and
 disability compensation.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect as of January 1, 2006, and
 3 shall apply to payments for months beginning on or after
 4 that date.

5 **SEC. 4. COORDINATION OF SERVICE ELIGIBILITY FOR COM-**
 6 **BAT-RELATED SPECIAL COMPENSATION AND**
 7 **CONCURRENT RECEIPT.**

8 (a) ELIGIBILITY FOR TERA RETIREES.—Subsection
 9 (c) of section 1413a of title 10, United States Code, is
 10 amended by striking “entitled to retired pay who—” and
 11 all that follows and inserting “who—

12 “(1) is entitled to retired pay, other than a
 13 member retired under chapter 61 of this title with
 14 less than 20 years of service creditable under section
 15 1405 of this title and less than 20 years of service
 16 computed under section 12732 of this title; and

17 “(2) has a combat-related disability”.

18 (b) AMENDMENTS TO STANDARDIZE SIMILAR PROVI-
 19 SIONS.—

20 (1) CLERICAL AMENDMENT.—The heading for
 21 paragraph (3) of section 1413a(b) of such title is
 22 amended by striking “RULES” and inserting
 23 “RULE”.

24 (2) SPECIFICATION OF QUALIFIED RETIREES
 25 FOR CONCURRENT RECEIPT PURPOSES.—Subsection

1 (a) of section 1414 of such title, as amended by sec-
 2 tion 2(a), is amended—

3 (A) by striking “a member or” and all that
 4 follows through “retiree’)” and inserting “an
 5 individual who is a qualified retiree for any
 6 month”;

7 (B) by inserting “retired pay and veterans’
 8 disability compensation” after “both”; and

9 (C) by adding at the end the following new
 10 paragraph:

11 “(2) QUALIFIED RETIREES.—For purposes of
 12 this section, a qualified retiree, with respect to any
 13 month, is a member or former member of the uni-
 14 formed services who—

15 “(A) is entitled to retired pay, other than
 16 in the case of a member retired under chapter
 17 61 of this title with less than 20 years of serv-
 18 ice creditable under section 1405 of this title
 19 and less than 20 years of service computed
 20 under section 12732 of this title; and

21 “(B) is also entitled for that month to vet-
 22 erans’ disability compensation.”.

23 (3) STANDARDIZATION WITH CRSC RULE FOR
 24 CHAPTER 61 RETIREES.—Subsection (b) of section
 25 1414 of such title is amended—

1 (A) by striking “SPECIAL RULES” in the
2 subsection heading and all that follows through
3 “is subject to” in paragraph (1) and inserting
4 “SPECIAL RULE FOR CHAPTER 61 DISABILITY
5 RETIREEES.—In the case of a qualified retiree
6 who is retired under chapter 61 of this title, the
7 retired pay of the member is subject to”; and

8 (B) by striking paragraph (2).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect as of January 1, 2006, and
11 shall apply to payments for months beginning on or after
12 that date.

○