

Calendar No. 79

109TH CONGRESS
1ST SESSION**S. 845**

To amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt.

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2005

Mr. REID introduced the following bill; which was read the first time

APRIL 20, 2005

Read the second time and placed on the calendar

A BILL

To amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period 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. FINDINGS.**

4 Congress finds the following:

1 (1) For more than 100 years before 1999, all
2 disabled military retirees were required to fund their
3 own veterans' disability compensation by forfeiting
4 \$1 of earned retired pay for each \$1 received in vet-
5 erans' disability compensation.

6 (2) Since 1999, Congress has enacted legisla-
7 tion every year to progressively expand eligibility cri-
8 teria for relief of the retired pay disability offset and
9 further reduce the burden of financial sacrifice on
10 disabled military retirees.

11 (3) Absent adequate funding to eliminate the
12 sacrifice for all disabled retirees, Congress has given
13 initial priority to easing financial inequities for the
14 most severely disabled and for combat-disabled retir-
15 ees.

16 (4) In the interest of maximizing eligibility
17 within cost constraints, Congress effectively has au-
18 thorized full concurrent receipt for all qualifying re-
19 tirees with 100 percent disability ratings and all
20 with combat-related disability ratings, while phasing
21 out the disability offset to retired pay over 10 years
22 for retired members with noncombat-related, service-
23 connected disability ratings of 50 percent to 90 per-
24 cent.

1 (5) In pursuing these good-faith efforts, Con-
 2 gress acknowledges the regrettable necessity of cre-
 3 ating new thresholds of eligibility that understand-
 4 ably are disappointing to disabled retirees who fall
 5 short of meeting those new thresholds.

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

7 **SEC. 2. SENSE OF CONGRESS.**

8 It is the sense of Congress that military retired pay
 9 earned by service and sacrifice in defending the Nation
 10 should not be reduced because a military retiree is also
 11 eligible for veterans' disability compensation awarded for
 12 service-connected disability.

13 **SEC. 3. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY**
 14 **AND VETERANS' DISABILITY COMPENSATION**
 15 **FOR CERTAIN ADDITIONAL MILITARY RETIR-**
 16 **EES WITH COMPENSABLE SERVICE-CON-**
 17 **NECTED DISABILITIES.**

18 (a) EXTENSION OF CONCURRENT RECEIPT AUTHOR-
 19 ITY TO RETIREES WITH SERVICE-CONNECTED DISABIL-
 20 ITIES RATED LESS THAN 50 PERCENT.—Section 1414(a)
 21 of title 10, United States Code, is amended to read as
 22 follows:

23 “(a) PAYMENT OF BOTH RETIRED PAY AND COM-
 24 PENSATION.—

1 “(1) IN GENERAL.—Subject to subsection (b),
 2 an individual who is a qualified retiree for any
 3 month is entitled to be paid both retired pay and
 4 veterans’ disability compensation for that month
 5 without regard to sections 5304 and 5305 of title
 6 38.

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

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

17 “(B) is entitled for that month to veterans’
 18 disability compensation.”.

19 (b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT
 20 OF RETIRED PAY AND VETERANS’ DISABILITY COM-
 21 PENSATION.—Section 1414 of title 10, United States
 22 Code, is further amended—

23 (1) by striking subsection (c);

24 (2) by redesignating subsections (d) and (e) as
 25 subsections (c) and (d), respectively; and

1 (3) in subsection (d), as redesignated, by strik-
 2 ing subparagraph (4).

3 (c) CLERICAL AMENDMENTS.—

4 (1) The heading for section 1414 of title 10,
 5 United States Code, is amended to read as follows:

6 **“§ 1414. Members eligible for retired pay who are also**
 7 **eligible for veterans’ disability compensa-**
 8 **tion: concurrent payment of retired pay**
 9 **and disability compensation”.**

10 (2) The item relating to such section in the
 11 table of sections at the beginning of chapter 71 of
 12 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.”.

13 **SEC. 4. COORDINATION OF SERVICE ELIGIBILITY FOR COM-**
 14 **BAT-RELATED SPECIAL COMPENSATION AND**
 15 **CONCURRENT RECEIPT.**

16 (a) ELIGIBILITY FOR TERA RETIREES.—Section of
 17 section 1413a(c) of title 10, United States Code, is amend-
 18 ed by striking “entitled to retired pay who—” and all that
 19 follows and inserting “who—

20 “(1) is entitled to retired pay, other than a
 21 member retired under chapter 61 of this title with
 22 less than 20 years of service creditable under section
 23 1405 of this title and less than 20 years of service
 24 computed under section 12732 of this title; and

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

2 (b) AMENDMENTS TO STANDARDIZE SIMILAR PROVI-
3 SIONS.—

4 (1) CLERICAL AMENDMENT.—The heading for
5 paragraph (3) of section 1413a(b) of title 10, United
6 States Code, is amended by striking “RULES” and
7 inserting “RULE”.

8 (2) STANDARDIZATION WITH CRSC RULE FOR
9 CHAPTER 61 RETIREES.—Section 1414(b) of such
10 title is amended—

11 (A) by striking “SPECIAL RULES” and all
12 that follows through “is subject to” in para-
13 graph (1) and inserting “SPECIAL RULE FOR
14 CHAPTER 61 DISABILITY RETIREES.—In the
15 case of a qualified retiree who is retired under
16 chapter 61 of this title, the retired pay of the
17 member is subject to”; and

18 (B) by striking paragraph (2).

19 **SEC. 5. EFFECTIVE DATE.**

20 The amendments made by this Act shall take effect
21 as of January 1, 2006, and shall apply to payments for
22 months beginning on or after that date.

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