

108TH CONGRESS
1ST SESSION

S. 392

To amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2003

Mr. REID (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. HAGEL, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Mr. MILLER, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SMITH, Ms. SNOWE, Mr. CAMPBELL, Mr. LIEBERMAN, and Mr. COCHRAN) 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 retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

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 This Act may be cited as the “Retired Pay Restora-
3 tion Act of 2003”.

4 **SEC. 2. FULL PAYMENT OF BOTH RETIRED PAY AND COM-
5 PENSATION TO DISABLED MILITARY RETIR-
6 EES.**

7 (a) RESTORATION OF FULL RETIRED PAY BENE-
8 FITS.—Section 1414 of title 10, United States Code, is
9 amended to read as follows:

10 **“§ 1414. Members eligible for retired pay who have
11 service-connected disabilities: payment of
12 retired pay and veterans’ disability com-
13 pensation**

14 “(a) PAYMENT OF BOTH RETIRED PAY AND COM-
15 PENSATION.—Except as provided in subsection (b), a
16 member or former member of the uniformed services who
17 is entitled to retired pay (other than as specified in sub-
18 section (c)) and who is also entitled to veterans’ disability
19 compensation is entitled to be paid both without regard
20 to sections 5304 and 5305 of title 38.

21 “(b) SPECIAL RULE FOR CHAPTER 61 CAREER RE-
22 TIREES.—The retired pay of a member retired under
23 chapter 61 of this title with 20 years or more of service
24 otherwise creditable under section 1405 of this title at the
25 time of the member’s retirement is subject to reduction
26 under sections 5304 and 5305 of title 38, but only to the

1 extent that the amount of the member's retired pay under
 2 chapter 61 of this title exceeds the amount of retired pay
 3 to which the member would have been entitled under any
 4 other provision of law based upon the member's service
 5 in the uniformed services if the member had not been re-
 6 tired under chapter 61 of this title.

7 “(c) EXCEPTION.—Subsection (a) does not apply to
 8 a member retired under chapter 61 of this title with less
 9 than 20 years of service otherwise creditable under section
 10 1405 of this title at the time of the member's retirement.

11 “(d) DEFINITIONS.—In this section:

12 “(1) The term ‘retired pay’ includes retainer
 13 pay, emergency officers’ retirement pay, and naval
 14 pension.

15 “(2) The term ‘veterans’ disability compensa-
 16 tion’ has the meaning given the term ‘compensation’
 17 in section 101(13) of title 38.”.

18 (b) REPEAL OF SPECIAL COMPENSATION PRO-
 19 GRAMS.—Sections 1413 and 1413a of such title are re-
 20 pealed.

21 (c) CLERICAL AMENDMENT.—The table of sections
 22 at the beginning of such chapter is amended by striking
 23 the items relating to sections 1413, 1413a, and 1414 and
 24 inserting the following:

“1414. Members eligible for retired pay who have service-connected disabilities:
 payment of retired pay and veterans’ disability compensation.”.

1 **SEC. 3. EFFECTIVE DATE; PROHIBITION ON RETROACTIVE**
2 **BENEFITS.**

3 (a) **IN GENERAL.**—The amendments made by this
4 Act shall take effect on—

5 (1) the first day of the first month that begins
6 after the date of the enactment of this Act; or

7 (2) the first day of the fiscal year that begins
8 in the calendar year in which this Act is enacted, if
9 later than the date specified in paragraph (1).

10 (b) **RETROACTIVE BENEFITS.**—No benefits may be
11 paid to any person by reason of section 1414 of title 10,
12 United States Code, as amended by section 2(a), for any
13 period before the effective date applicable under sub-
14 section (a).

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