

112TH CONGRESS
1ST SESSION

H. R. 186

To amend title 10, United States Code, to expand the eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all members of the uniformed services who are retired under chapter 61 of such title for disability, regardless of the members' disability rating percentage.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Mr. WILSON of South Carolina introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on the Budget and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 10, United States Code, to expand the eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all members of the uniformed services who are retired under chapter 61 of such title for disability, regardless of the members' disability rating percentage.

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. EXPANSION OF ELIGIBILITY FOR CONCURRENT**
2 **RECEIPT OF MILITARY RETIRED PAY AND**
3 **VETERANS' DISABILITY COMPENSATION TO**
4 **INCLUDE ALL CHAPTER 61 DISABILITY RE-**
5 **TIREES REGARDLESS OF DISABILITY RATING**
6 **PERCENTAGE.**

7 (a) PHASED EXPANSION CONCURRENT RECEIPT.—

8 Subsection (a) of section 1414 of title 10, United States
9 Code, is amended to read as follows:

10 “(a) PAYMENT OF BOTH RETIRED PAY AND DIS-
11 ABILITY COMPENSATION.—

12 “(1) PAYMENT OF BOTH REQUIRED.—

13 “(A) IN GENERAL.—Subject to subsection
14 (b), a member or former member of the uni-
15 formed services who is entitled for any month
16 to retired pay and who is also entitled for that
17 month to veterans' disability compensation for a
18 qualifying service-connected disability (in this
19 section referred to as a ‘qualified retiree’) is en-
20 titled to be paid both the retired pay and the
21 veterans' disability compensation for that
22 month without regard to sections 5304 and
23 5305 of title 38.

24 “(B) APPLICABILITY OF FULL CONCUR-
25 RENT RECEIPT PHASE-IN REQUIREMENT.—Dur-
26 ing the period beginning on January 1, 2004,

1 and ending on December 31, 2013, payment of
2 retired pay to a qualified retiree is subject to
3 subsection (c).

4 “(C) PHASE-IN EXCEPTION FOR 100 PER-
5 CENT DISABLED RETIREES.—The payment of
6 retired pay is subject to subsection (c) only dur-
7 ing the period beginning on January 1, 2004,
8 and ending on December 31, 2004, in the case
9 of the following qualified retirees:

10 “(i) A qualified retiree receiving vet-
11 erans’ disability compensation for a dis-
12 ability rated as 100 percent.

13 “(ii) A qualified retiree receiving vet-
14 erans’ disability compensation at the rate
15 payable for a 100 percent disability by rea-
16 son of a determination of individual
17 unemployability.

18 “(D) PHASE-IN EXCEPTION FOR CERTAIN
19 CHAPTER 61 DISABILITY RETIREES.—Subject to
20 subsection (b), on and after January 1, 2012,
21 subsection (c) shall not apply to a qualified re-
22 tiree who has a qualifying service-connected dis-
23 ability described in subparagraph (B) or (C) of
24 paragraph (2).

1 “(2) QUALIFYING SERVICE-CONNECTED DIS-
2 ABILITY DEFINED.—In this section, the term ‘quali-
3 fying service-connected disability’, with respect to a
4 qualified retiree, means the following:

5 “(A) In the case of a qualified retiree re-
6 ceiving retired pay under any provision of law
7 other than chapter 61 of this title, or under
8 chapter 61 with 20 years or more of service
9 otherwise creditable under section 1405 or com-
10 puted under section 12732 of this title, a serv-
11 ice-connected disability or combination of serv-
12 ice-connected disabilities that is rated as dis-
13 abling by the Secretary of Veterans Affairs.

14 “(B) In the case of a qualified retiree re-
15 ceiving retired pay under chapter 61 of this
16 title with less than 20 years of service otherwise
17 creditable under section 1405 or computed
18 under section 12732 of this title, a service-con-
19 nected disability or combination of service-con-
20 nected disabilities that is rated by the Secretary
21 of Veterans Affairs at the disabling level speci-
22 fied in one of the following clauses (and is ef-
23 fective on or after the date specified in the ap-
24 plicable clause):

1 “(i) January 1, 2012, rated 100 per-
2 cent, or a rate payable at 100 percent by
3 reason of individual unemployability or
4 rated 90 percent.

5 “(ii) January 1, 2013, rated 80 per-
6 cent or 70 percent.

7 “(iii) January 1, 2014, rated 60 per-
8 cent or 50 percent.

9 “(C) In the case of a qualified retiree re-
10 ceiving retired pay under chapter 61 regardless
11 of years of service, a service-connected disability
12 or combination of service-connected disabilities
13 that is rated by the Secretary of Veterans Af-
14 fairs at the disabling level specified in one of
15 the following clauses (and is effective on or
16 after the date specified in the applicable
17 clause):

18 “(i) January 1, 2015, rated 40 per-
19 cent or 30 percent.

20 “(ii) January 1, 2016, any rating.”.

21 (b) CONFORMING AMENDMENT TO SPECIAL RULES
22 FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b)
23 of such section is amended to read as follows:

24 “(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY
25 RETIREES.—

1 “(1) CAREER RETIREES.—The retired pay of a
2 member retired under chapter 61 of this title with
3 20 years or more of service otherwise creditable
4 under section 1405 of this title, or at least 20 years
5 of service computed under section 12732 of this
6 title, at the time of the member’s retirement, is sub-
7 ject to reduction under sections 5304 and 5305 of
8 title 38, but only to the extent that the amount of
9 the member’s retired pay under chapter 61 of this
10 title exceeds the amount of retired pay to which the
11 member would have been entitled under any other
12 provision of law based upon the member’s service in
13 the uniformed services if the member had not been
14 retired under chapter 61 of this title.

15 “(2) SPECIAL RULE FOR RETIREES WITH
16 FEWER THAN 20 YEARS OF SERVICE.—The retired
17 pay of a member retired under chapter 61 of this
18 title with fewer than 20 years of creditable service
19 otherwise creditable under section 1405 or computed
20 under section 12732 of this title, at the time of the
21 member’s retirement, is subject to reduction under
22 sections 5304 and 5305 of title 38, but only to the
23 extent that the amount of the member’s retired pay
24 under chapter 61 of this title exceeds the amount
25 equal to 2½ percent of the member’s years of cred-

1 itable service multiplied by the member’s retired pay
 2 base under section 1406(b)(1) or 1407 of this title,
 3 whichever is applicable to the member.”.

4 (c) FULL CONCURRENT RECEIPT PHASE-IN.—Sub-
 5 section (c) of such section is amended—

6 (1) by striking “the second sentence of” in the
 7 matter preceding paragraph (1); and

8 (2) in paragraph (1), by adding at the end the
 9 following new subparagraph:

10 “(G) For a month for which the retiree re-
 11 ceives veterans’ disability compensation for a
 12 disability rated as 40 percent or less or has a
 13 service-connected disability rated as zero per-
 14 cent, \$0.”.

15 (d) CLERICAL AMENDMENTS.—

16 (1) SECTION HEADING.—The heading of such
 17 section is amended to read as follows:

18 **“§ 1414. Concurrent receipt of retired pay and vet-
 19 erans’ disability compensation”.**

20 (2) TABLE OF SECTIONS.—The table of sections
 21 at the beginning of chapter 71 of such title is
 22 amended by striking the item related to section 1414
 23 and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans’ disability compensa-
 tion.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on January 1, 2012.

3 (f) FUNDING OFFSET.—The Chairman of the Com-
4 mittee on the Budget of the House of Representatives
5 shall provide the necessary adjustments in allocations, ag-
6 gregates, and other appropriate levels in the concurrent
7 resolution on the budget for fiscal year 2012 to implement
8 this section and the amendments made by this section.

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