

112TH CONGRESS
1ST SESSION

H. R. 1979

To amend title 10, United States Code, to expand eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include additional chapter 61 disability retirees, to coordinate eligibility for combat-related special compensation and concurrent receipt, to eliminate the reduction of SBP survivor annuities by dependency and indemnity compensation, and to enhance the ability of members of the reserve components who serve on active duty or perform active service to receive credit for such service in determining eligibility for early receipt of non-regular service retired pay.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2011

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on 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 eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include additional chapter 61 disability retirees, to coordinate eligibility for combat-related special compensation and concurrent receipt, to eliminate the reduction of SBP survivor annuities by dependency and indemnity compensation, and to enhance the ability of members of the reserve components who serve on active duty or perform active service to

receive credit for such service in determining eligibility for early receipt of non-regular service retired pay.

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. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED**
 4 **PAY AND VETERANS' DISABILITY COMPENSA-**
 5 **TION FOR CERTAIN ADDITIONAL MILITARY**
 6 **RETIREES WITH COMPENSABLE SERVICE-**
 7 **CONNECTED DISABILITIES.**

8 (a) EXTENSION OF CONCURRENT RECEIPT AUTHOR-
 9 ITY TO RETIREES WITH SERVICE-CONNECTED DISABIL-
 10 ITIES RATED LESS THAN 50 PERCENT.—Subsection (a)
 11 of section 1414 of title 10, United States Code, is amend-
 12 ed—

13 (1) by striking “COMPENSATION” in the sub-
 14 section heading and all that follows through “Sub-
 15 ject” and inserting “COMPENSATION.—Subject”;
 16 and

17 (2) by striking paragraph (2).

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

21 (1) in subsection (a), as amended by subsection
 22 (a) of this section, by striking the final sentence;

1 (2) by striking subsection (c) and redesignating
2 subsections (d) and (e) as subsections (c) and (d),
3 respectively; and

4 (3) in subsection (d), as so redesignated, by
5 striking paragraphs (3) and (4).

6 (c) CLERICAL AMENDMENTS.—

7 (1) SECTION HEADING.—The heading for sec-
8 tion 1414 of such title is amended to read as fol-
9 lows:

10 “§ 1414. **Members eligible for retired pay who are also**
11 **eligible for veterans’ disability compensa-**
12 **tion: concurrent payment of retired pay**
13 **and disability compensation”.**

14 (2) TABLE OF SECTIONS.—The item relating to
15 such section in the table of sections at the beginning
16 of chapter 71 of such title is amended to read as fol-
17 lows:

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

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect as of January 1, 2012, and
20 shall apply to payments for months beginning on or after
21 that date.

1 **SEC. 2. COORDINATION OF SERVICE ELIGIBILITY FOR COM-**
2 **BAT-RELATED SPECIAL COMPENSATION AND**
3 **CONCURRENT RECEIPT.**

4 (a) ELIGIBILITY FOR TERA RETIREES.—Subsection
5 (c) of section 1413a of title 10, United States Code, is
6 amended by striking “entitled to retired pay who—” and
7 all that follows through the end of paragraph (1) and in-
8 serting “who—

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

14 (b) AMENDMENTS TO STANDARDIZE SIMILAR PROVI-
15 SIONS.—

16 (1) CLERICAL AND CONFORMING AMEND-
17 MENTS.—Section 1413a of such title is further
18 amended—

19 (A) in the heading for paragraph (3) of
20 subsection (b), by striking “RULES” and insert-
21 ing “RULE”; and

22 (B) in subsection (f), by striking “Sub-
23 section (d)” and inserting “Subsection (c)”.

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

1 1414 of such title, as amended by section 3, is
2 amended—

3 (A) in subsection (a)—

4 (i) by striking “a member or” and all
5 that follows through “is entitled” and in-
6 serting “an individual who is a qualified
7 retiree for any month is entitled”; and

8 (ii) by inserting “retired pay and vet-
9 erans’ disability compensation” after
10 “both”; and

11 (B) in subsection (d), by adding at the end
12 the following new paragraph:

13 “(3) QUALIFIED RETIREE.—The term ‘qualified
14 retiree’ means a member or former member of the
15 uniformed services who, with respect to any
16 month—

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

23 “(B) is entitled to veterans’ disability com-
24 pensation.”.

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

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

11 (B) by striking paragraph (2).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as of January 1, 2012, and
14 shall apply to payments for months beginning on or after
15 that date.

16 **SEC. 3. REPEAL OF REQUIREMENT OF REDUCTION OF SBP**
17 **SURVIVOR ANNUITIES BY DEPENDENCY AND**
18 **INDEMNITY COMPENSATION.**

19 (a) REPEAL.—

20 (1) REPEAL.—Subchapter II of chapter 73 of
21 title 10, United States Code, is amended as follows:

22 (A) In section 1450, by striking subsection

23 (c).

24 (B) In section 1451(c)—

25 (i) by striking paragraph (2); and

1 (ii) by redesignating paragraphs (3)
2 and (4) as paragraphs (2) and (3), respec-
3 tively.

4 (2) CONFORMING AMENDMENTS.—Such sub-
5 chapter is further amended as follows:

6 (A) In section 1450—

7 (i) by striking subsection (e); and

8 (ii) by striking subsection (k).

9 (B) In section 1451(g)(1), by striking sub-
10 paragraph (C).

11 (C) In section 1452—

12 (i) in subsection (f)(2), by striking
13 “does not apply—” and all that follows
14 and inserting “does not apply in the case
15 of a deduction made through administra-
16 tive error.”; and

17 (ii) by striking subsection (g).

18 (D) In section 1455(c), by striking “,
19 1450(k)(2),”.

20 (b) PROHIBITION ON RETROACTIVE BENEFITS.—No
21 benefits may be paid to any person for any period before
22 the effective date provided under subsection (f) by reason
23 of the amendments made by subsection (a).

24 (c) PROHIBITION ON RECOUPMENT OF CERTAIN
25 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-

1 ENTS.—A surviving spouse who is or has been in receipt
2 of an annuity under the Survivor Benefit Plan under sub-
3 chapter II of chapter 73 of title 10, United States Code,
4 that is in effect before the effective date provided under
5 subsection (f) and that is adjusted by reason of the
6 amendments made by subsection (a) and who has received
7 a refund of retired pay under section 1450(e) of title 10,
8 United States Code, shall not be required to repay such
9 refund to the United States.

10 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY
11 FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of
12 such title is amended—

13 (1) by striking “DEPENDENT CHILDREN.—”
14 and all that follows through “In the case of a mem-
15 ber described in paragraph (1),” and inserting “DE-
16 PENDENT CHILDREN.—In the case of a member de-
17 scribed in paragraph (1),”; and

18 (2) by striking subparagraph (B).

19 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY
20 ELIGIBLE SPOUSES.—The Secretary of the military de-
21 partment concerned shall restore annuity eligibility to any
22 eligible surviving spouse who, in consultation with the Sec-
23 retary, previously elected to transfer payment of such an-
24 nuity to a surviving child or children under the provisions
25 of section 1448(d)(2)(B) of title 10, United States Code,

1 as in effect on the day before the effective date provided
2 under subsection (f). Such eligibility shall be restored
3 whether or not payment to such child or children subse-
4 quently was terminated due to loss of dependent status
5 or death. For the purposes of this subsection, an eligible
6 spouse includes a spouse who was previously eligible for
7 payment of such annuity and is not remarried, or remar-
8 ried after having attained age 55, or whose second or sub-
9 sequent marriage has been terminated by death, divorce
10 or annulment.

11 (f) EFFECTIVE DATE.—This section and the amend-
12 ments made by this section shall take effect on the later
13 of—

14 (1) October 1, 2011; or

15 (2) the first day of the first month that begins
16 after the date of the enactment of this Act.

17 **SEC. 4. ELIMINATION OF FISCAL YEAR LIMITATION IN CON-**
18 **SIDERING ACTIVE DUTY AND ACTIVE SERV-**
19 **ICE FOR EARLY ELIGIBILITY FOR RECEIPT**
20 **OF NON-REGULAR SERVICE RETIRED PAY.**

21 (a) CONSIDERATION OF 90-DAY PERIODS OF SERV-
22 ICE.—Section 12731(f)(2)(A) of title 10, United States
23 Code, is amended by striking “below 60 years of age by
24 three months for each aggregate of 90 days on which such
25 person so performs in any fiscal year after such date, sub-

1 ject to subparagraph (C)” and inserting “, subject to sub-
2 paragraph (C), below 60 years of age by three months for
3 each aggregate of 90 days on which such person serves
4 on such active duty or performs such active service after
5 such date”.

6 (b) RETROACTIVE EFFECTIVE DATE.—The amend-
7 ment made by subsection (a) shall take effect as of Janu-
8 ary 28, 2008, and as if included in the National Defense
9 Authorization Act for Fiscal Year 2008 (Public Law 110–
10 181) as enacted.

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