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# **THE DISABLED VETERANS TAX IMPACTS THOUSANDS OF VETERANS IN GEORGIA**

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PREPARED FOR REP. JIM MARSHALL

## The Disabled Veterans Tax Impacts Thousands of Veterans in Georgia

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## The Disabled Veterans Tax Impacts Thousands of Veterans in Georgia

### EXECUTIVE SUMMARY

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Every year, hundreds of thousands of disabled military veterans pay a “Disabled Veterans Tax” that effectively forces them to give up their disability benefits from the Department of Veterans Affairs. At the request of Rep. Marshall, this report analyzes the impact of this regressive tax on veterans in Georgia.

Under current law, veterans with 20 years of military service are entitled to receive retirement benefits from the Department of Defense. In addition, veterans who incurred service-related disabilities are entitled to receive disability compensation benefits from the Department of Veterans Affairs. If a veteran has both 20 years of military service and a service-related disability, however, the veteran’s military retirement benefit is reduced on a dollar-for-dollar basis by the amount the veteran receives in disability compensation. This reduction in the veteran’s retirement benefits is commonly known as the “Disabled Veterans Tax.” Effectively, the disability compensation received by these veterans is taxed at a 100% rate.

This report finds that the Disabled Veterans Tax has a significant impact on veterans in Georgia. Specifically, the report finds:

- **Over twenty-five thousand veterans in Georgia are subject to the Disabled Veterans Tax.** Approximately 26,500 veterans in Georgia lose military retirement benefits due to the Disabled Veterans Tax. One out of every three retired veterans in the state (30%) is subject to the Disabled Veterans Tax.
- **The Disabled Veterans Tax costs veterans in Georgia over one hundred million dollars annually.** Statewide, veterans subject to the Disabled Veterans Tax lose over \$11 million dollars each month, or \$130 million in benefits annually. This is an average of almost \$5,000 per affected veteran in the state. For these veterans, this amounts to an estimated reduction in military benefits of over 20%.
- **Legislation to end the Disabled Veterans Tax would help veterans in Georgia.** Rep. Marshall has sponsored H.R. 303, the Retired Pay Restoration Act of 2003. Passage of this bill would end the Disabled Veterans Tax for any veteran with over 20 years of military service, restoring millions of dollars in benefits to veterans in Georgia.

## THE DISABLED VETERANS TAX

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Disabled military retirees receive benefits through two agencies, the Department of Defense and the Department of Veterans Affairs.

Veterans who have served for at least 20 years in the military receive standard retirement benefits from the Department of Defense. These benefits are determined by multiplying 2.5% of the servicemember's final basic pay by the number of years of service. Thus, a servicemember who has served for 20 years would receive annual retirement benefits equal to 50% of their final basic pay. Presently, there are an estimated 1.4 million retired veterans who receive average retirement pay of \$22,000 annually.<sup>1</sup>

Veterans who have service-related disabilities also receive compensation through VA. The goal of these payments is to compensate the veterans for the reduction in earnings capacity resulting from disabilities incurred during military service.<sup>2</sup> These payments are based on a scale of disability severity. This scale ranges from 0% disabled to 100% disabled. Average monthly disability payments in 2002 ranged from approximately \$100 for a veteran with a 10% disability to \$2,100 for a veteran who was 100% disabled.<sup>3</sup>

There are presently an estimated 560,000 retired servicemembers who qualify for military retirement benefits and VA disability benefits. An 1891 law, however, bars "concurrent receipt" of both military retirement benefits and disability benefits. As a result, for veterans who receive both military retirement benefits from DOD and disability benefits from the VA, military retirement benefits are reduced dollar-for-dollar for each dollar of VA disability benefits.<sup>4</sup>

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<sup>1</sup> Congressional Research Service, *Military Retirement: Major Legislative Issues* (July 10, 2003). In addition, retirees with less than 20 years service who have either (1) completed at least 8 years of creditable military service and received a physical disability rating of 30% or greater from an evaluation board; or (2) have a disability resulting from active duty can also receive disability retirement benefits. There are an estimated 100,000 servicemembers currently receiving disability retirement.

<sup>2</sup> GAO, *Military and Veterans Benefits: Observations on the Concurrent Receipt of Military Retirement and VA Disability Compensation* (Mar. 2003) GAO-03-575T. Additional benefits are paid to veterans who are at least 30% disabled and have dependents and to very severely disabled veterans who qualify for "special monthly compensation."

<sup>3</sup> *Id.*

<sup>4</sup> Disabled retirees can choose to either have their military retirement benefits reduced by the amount of their VA compensation, or have their VA compensation reduced by the amount of their retirement benefit. Because military retirement benefits are taxable,

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The result of this policy — known as “the Disabled Veterans Tax” — is that hundreds of thousands of disabled veterans are denied billions of dollars in benefits each year. According to data from the Department of Defense, an estimated 565,000 military retirees who have served at least 20 years lose a total of over \$3 billion in benefits annually because of concurrent receipt restrictions.

### **LEGISLATIVE EFFORTS TO ELIMINATE THE DISABLED VETERANS TAX**

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Periodically, Congress has made efforts to end the restrictions on concurrent receipt of military retiree and VA disability benefits. Most recently, in the 107th Congress in 2002, both the House and the Senate passed legislation to restore benefits to many veterans.<sup>5</sup>

Ultimately, neither the House nor the Senate proposals were enacted into law. The Bush Administration threatened to veto the entire DOD authorization legislation if either proposal was included in the final legislation. As a result, the final version of the legislation provided for “special pay” not subject to the offset only for the disabilities of retirees which were caused by an injury for which they received a Purple Heart or who had a severe disability rated at 60% or more resulting from armed conflict, hazardous service, training activities that simulate war, or war-related circumstances.<sup>6</sup> This requires DOD to make a complicated calculation concerning each disability of each disabled retiree to determine which disabilities are combat related and therefore qualify for the special pay.

The final legislation was so narrowly crafted that it allows only an estimated 33,000 veterans to receive both military retirement and disability benefits.<sup>7</sup> It is so complicated that it may take years for retirees to prove their entitlement to special pay. For example, in cases involving a disability resulting from a retiree’s

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while VA compensation is not, the vast majority of retirees choose to reduce their military compensation.

<sup>5</sup> The House legislation would have allowed veterans with disability ratings of 60% or greater to receive concurrent receipt of military retirement pay and VA disability pay. This legislation would have restored benefits to an estimated 111,000 veterans. The Senate legislation would have allowed all disabled veterans to receive both military retirement pay and VA disability benefits. *See* Congressional Research Service, *Concurrent Receipt of Military Retirement and VA Disability Benefits: Budgetary Issues* (Nov. 15, 2002).

<sup>6</sup> H.R. 4546, *FY 2003 DOD Authorization Act* (Nov. 2002).

<sup>7</sup> CRS, *supra* note 5.

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contact with an armored tank, payment of special compensation will depend upon whether the tank had hit the retiree or the retiree had hit the tank.<sup>8</sup>

Frustrated by Congress' repeated failures to repeal the Disabled Veterans Tax, Rep. Marshall and other members of the House of Representatives launched a renewed legislative effort to end the tax in the 108th Congress. The goal of this effort is to enact legislation cosponsored by Rep. Marshall: the Retired Pay Restoration Act of 2003 (H.R. 303). This legislation would eliminate the prohibition on concurrent receipt of veterans' retirements and disability benefits for all military retirees with at least 20 years of service. H.R. 303 currently has 352 cosponsors in the House.

Republican leaders in Congress oppose H.R. 303 and have not allowed a vote on the bill despite its broad support.<sup>9</sup> In response, Rep. Jim Marshall (D-GA) filed a "discharge petition" on June 12, 2003, that would force House leaders to allow a vote on the bill.<sup>10</sup> If the discharge petition receives the signatures of 218 House members (a majority of the House), House rules require a vote on the legislation. There are presently 200 Democratic members, one Republican member, and one independent member of the House who have signed the discharge petition.

### **OBJECTIVE AND METHODOLOGY**

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This report was requested by Rep. Jim Marshall, who represents the 3rd Congressional District of Georgia, which includes the cities of Macon, Warner Robbins, and Milledgeville in middle Georgia. Rep. Marshall requested this report in order to determine (1) the impact of the Disabled Veterans Tax on veterans in Georgia, and (2) the potential benefits for veterans in the state from enactment of H.R. 303.

To conduct this analysis, the Special Investigations Division obtained and analyzed data from the Office of the Actuary of the Department of Defense. The data includes zip code-level data on the total number of military retirees who are forced to pay the Disabled Veterans Tax. It also includes data on the monthly cost of the tax. Using this database, the Special Investigations Division summarized the impact of the Disabled Veterans Tax on veterans in Georgia. In

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<sup>8</sup> Department of Defense, *Combat-Related Special Compensation (CRSC) Web Site* (2003) (online at <https://www.dmdc.osd.mil/crsc/>).

<sup>9</sup> House Speaker Dennis Hastert, *Transcript of Press Conference* (June 26, 2003) (online at <http://releases.usnewswire.com/GetRelease.asp?id=137-06272003>).

<sup>10</sup> Discharge Petition 108-002.

addition, the Special Investigations Division estimated the impact of the Disabled Veterans Tax on each of Georgia's 13 congressional districts.<sup>11</sup>

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**FINDINGS**

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**The Disabled Veterans Tax Affects Thousands of Veterans in Georgia**

There are 79,000 veterans in Georgia who receive military retirement benefits. Of these veterans, 26,521 veterans — 34% — also receive disability benefits from the VA and are subject to the Disabled Veterans Tax.

Appendix 1 contains information on the number of veterans affected in each of the 13 Georgia congressional districts.

**The Disabled Veterans Tax Costs Veterans in Georgia Millions of Dollars Annually**

Statewide, the Disabled Veterans Tax costs veterans \$11 million each month in lost disability benefits. This is equivalent to \$130 million annually.

On a per-veteran basis, the Disabled Veterans Tax costs each of the 26,521 impacted veterans in Georgia an average of \$4,975 annually.

The average retired veteran in Georgia receives veterans-related benefits of approximately \$18,600 annually. The Disabled Veterans Tax reduces benefits for affected veterans in the state by over 20%.

**Legislation To Eliminate the Disabled Veterans Tax Would Have Significant Benefits in Georgia**

Legislation sponsored by Rep. Marshall, the Retired Pay Restoration Act of 2003 (H.R. 303), would eliminate the Disabled Veterans Tax for all retired veterans with at least 20 years of service. Passage of H.R. 303 would result in increased benefits for 26,521 veterans in Georgia. These veterans would receive an increase in benefits of \$130 million annually.

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<sup>11</sup> All data in the DOD database was available at the 5-digit zip code level. Because 5 -digit zip codes can often be split between two or more congressional districts, the analysis assumes that when a zip code is split between two districts, half of the impacted veterans in the zip code are in each congressional district. Similarly, when a zip code is split between three districts, one-third of the impacted veterans in the zip code are assumed to be in each congressional district.

## **The Disabled Veterans Tax Impacts Thousands of Veterans in Georgia**

### **CONCLUSION**

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An 1891 law prevents disabled veterans from receiving both military retirement and VA service-connected disability compensation. As a result, hundreds of thousands of military veterans are forced to pay the Disabled Veterans Tax effectively reducing their benefits by billions of dollars each year. This analysis finds that 26,521 disabled 20-year military veterans in Georgia are forced to pay the Disabled Veterans Tax. Legislation sponsored by Rep. Marshall would eliminate the Disabled Veterans Tax for these veterans.



The Disabled Veterans Tax Impacts Thousands of Veterans in Georgia

**Appendix 1: Impact of the Disabled Veterans Tax by Congressional District**

<b>District Number</b>	<b>Number of 20-Year Retirees Who Lose Benefits to the Disabled Veterans Tax</b>	<b>Total Annual Lost Benefits in District (\$)</b>	<b>Average Lost Benefits in District (\$)</b>	<b>% of All Military Retirees in District Who Lose Pay to the Disabled Veterans Tax</b>
GA-1	4,305	\$20,200,000	\$4,698	36%
GA-2	2,326	\$12,800,000	\$5,520	32%
GA-3	1,777	\$8,200,000	\$4,615	30%
GA-4	760	\$3,900,000	\$5,085	29%
GA-5	701	\$3,800,000	\$5,411	26%
GA-6	948	\$4,400,000	\$4,692	26%
GA-7	920	4,300,000	\$4,694	27%
GA-8	3,033	\$15,100,000	\$4,963	34%
GA-9	2,511	\$13,300,000	\$5,306	32%
GA-10	855	\$4,400,000	\$5,191	25%
GA-11	1,668	\$8,800,000	\$5,272	28%
GA-12	4,564	\$23,300,000	\$5,115	44%
GA-13	1,924	\$9,300,000	\$4,817	36%