



UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENT REFORM – MINORITY STAFF  
SPECIAL INVESTIGATIONS DIVISION  
NOVEMBER 2003

---

**THE DISABLED VETERANS TAX IMPACTS THOUSANDS  
OF VETERANS IN NEW YORK**

---

PREPARED FOR

REP. TIMOTHY H. BISHOP  
REP. CHARLES B. RANGEL  
REP. LOUISE MCINTOSH SLAUGHTER  
REP. NITA M. LOWEY  
REP. CAROLYN B. MALONEY  
REP. CAROLYN MCCARTHY  
REP. JOSEPH CROWLEY  
REP. STEVE ISRAEL

**The Disabled Veterans Tax Impacts Thousands of Veterans in New York**

**TABLE OF CONTENTS**

---

---

Executive Summary .....1

The Disabled Veterans Tax.....2

Legislative Efforts to Eliminate the Disabled Veterans Tax .....3

Objective and Methodology.....5

Findings.....5

    The Disabled Veterans Tax Affects Thousands of Veterans in  
    New York.....5

    The Disabled Veterans Tax Costs Veterans in New York Millions of  
    Dollars Annually .....6

    Legislation to Eliminate the Disabled Veterans Tax Would Have  
    Significant Benefits in New York.....6

    The Republican Proposal to Reduce the Disabled Veterans Tax Would  
    Provide Only Limited Help for Veterans.....6

Conclusion .....7

**EXECUTIVE SUMMARY**

---

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 Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel, this report analyzes the impact of this regressive tax on veterans in New York.

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 contains the first analysis of the effect of the Disabled Veterans Tax in New York. The analysis finds that the Disabled Veterans Tax has a significant impact on veterans in the state. Specifically, it finds that:

- **Thousands of veterans in New York are subject to the Disabled Veterans Tax.** Approximately 6,800 veterans in New York lose military retirement benefits due to the Disabled Veterans Tax. Almost one out of every five retired veterans in the state (19%) is subject to the Disabled Veterans Tax.
- **The Disabled Veterans Tax costs veterans in New York millions of dollars annually.** Statewide, veterans subject to the Disabled Veterans Tax lose \$34.2 million in benefits annually. This is an average of \$5,010 per affected veteran in the state. For these veterans, this amounts to a reduction in military benefits of 28%.
- **Legislation supported by Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel to end the Disabled Veterans Tax would help many more veterans than legislation supported by House Republicans.** The members of Congress from New York who requested this report have all cosponsored the Retired Pay Restoration Act of 2003 (H.R. 303). Passage of this bill would end the Disabled Veterans Tax for any veteran with over 20 years of military service, immediately restoring full benefits to 6,800 veterans in New York in 2004. In contrast, the legislation supported by House Republicans would phase in the restoration of benefits to only 1,827 veterans in New York. The legislation sponsored by Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel would help almost four times as many veterans in the state as the Republican proposal.

## THE DISABLED VETERANS TAX

---

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 service member's final basic pay by the number of years of service. Thus, a service member 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 the 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 10% 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 service members 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>

---

<sup>1</sup> Congressional Research Service, *Military Retirement: Major Legislative Issues* (July 10, 2003). In addition, retirees with less than 20 years service can also receive disability retirement benefits if they 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) incurred a disability resulting from active duty. There are an estimated 100,000 of these service members 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 have either their military retirement benefits reduced by the amount of their VA disability benefits, or their VA disability benefits reduced by the amount of their military retirement benefit. Because military retirement benefits are taxable, while VA disability benefits are not, the vast majority of retirees choose to reduce their military retirement benefits.

## The Disabled Veterans Tax Impacts Thousands of Veterans in New York

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 veterans lose over \$3 billion in benefits annually due to the Disabled Veterans Tax.

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

---

Periodically, Congress has made efforts to end the restrictions on concurrent receipt of military retiree and VA disability benefits. Last Congress, for example, both the House and the Senate passed legislation to restore benefits to many veterans.<sup>5</sup> These efforts were thwarted, however, when the Bush Administration threatened to veto the entire DOD authorization legislation if either proposal was included in the final legislation. As a result, only extremely limited relief from the Disabled Veterans Tax could be enacted.<sup>6</sup>

Frustrated by Congress’ repeated failures to repeal the Disabled Veterans Tax, Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel 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 the Retired Pay Restoration Act of 2003 (H.R. 303). This legislation would eliminate the prohibition on concurrent receipt of veterans’ retirement and disability benefits. H.R. 303 currently has 373 cosponsors in the House.

---

<sup>5</sup> The House legislation would have allowed veterans with disability ratings of 60% or greater to receive both military retirement benefits and VA disability benefits. 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> The final version of the legislation provided for special pay, known as Combat-Related Special Compensation, not subject to the offset only for veterans who suffered 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. H.R. 4546, *FY 2003 DOD Authorization Act* (Nov. 2002). This law 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>6</sup> And 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 collision with an armored tank, payment of special compensation will depend upon whether the tank hit the retiree or the retiree hit the tank. Department of Defense, *Combat-Related Special Compensation (CRSC) Web Site* (2003) (online at <https://www.dmdc.osd.mil/crsc/>).

## The Disabled Veterans Tax Impacts Thousands of Veterans in New York

Republican leaders in Congress oppose H.R. 303 and have not allowed a vote on the bill despite its broad support.<sup>7</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>8</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, two Republican members, and one independent member of the House who have signed the discharge petition. Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel have all signed the discharge petition.

In October 2003, in an effort to avert passage of H.R. 303, Republican leaders in the House announced their own plan to reduce the burden of the disabled veterans tax.<sup>9</sup> Under this proposal, veterans with disability ratings of 50% or more would have their portion of the Disabled Veterans Tax eliminated over a ten-year period. Because of this long phase-in period, reductions of the tax would be very small in the early years of the proposal, and these veterans would not receive their full benefits until 2014.<sup>10</sup> The legislation would do nothing for most veterans currently paying the Disabled Veterans Tax who have disabilities rated 50% or less.

Veterans groups have criticized this Republican proposal because it fails to eliminate the Disabled Veterans Tax for all veterans. DOD data indicate that the proposal would provide relief for approximately 170,000 veterans, fewer than one of every three veterans currently paying the Disabled Veterans Tax. According to the American Legion, “creating a two-tiered benefits system, that favors one group of service-disabled military retirees over another, is not the answer.”<sup>11</sup>

---

### OBJECTIVE AND METHODOLOGY

---

This report was requested by Rep. Timothy H. Bishop, who represents the 1st Congressional District of New York, Rep. Charles B. Rangel, who represents the 15th Congressional District of New York, Rep. Louise McIntosh Slaughter, who represents the 28th Congressional District of New York, Rep. Nita M. Lowey,

---

<sup>7</sup> House Speaker Dennis Hastert, *Transcript of Press Conference* (June 26, 2003) (online at <http://releases.usnewswire.com/GetRelease.asp?id=137-06272003>).

<sup>8</sup> Discharge Petition 108-002.

<sup>9</sup> *Vets Could Collect More Benefits*, Washington Post (Oct. 17, 2003).

<sup>10</sup> In addition, the proposal would expand the 2002 legislation passed by Congress, providing that all veterans with a disability resulting from armed conflict receive Combat-Related Special Compensation.

<sup>11</sup> American Legion, *Legion: Disability Tax Compromise Unsatisfactory* (Oct. 16, 2003)

## **The Disabled Veterans Tax Impacts Thousands of Veterans in New York**

who represents the 18th Congressional District of New York, Rep. Carolyn B. Maloney, who represents the 14th Congressional District of New York, Rep. Carolyn McCarthy, who represents the 4th Congressional District of New York, Rep. Joseph Crowley, who represents the 7th Congressional District of New York, and Rep. Steve Israel, who represents the 2nd Congressional District of New York. Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel requested this report in order to determine (1) the impact of the Disabled Veterans Tax on veterans in the state and in their district; (2) the potential benefits for veterans in the state and their district from enactment of H.R. 303; and (3) the benefits that disabled veterans in the state and their district would receive under the Republican proposal compared to the benefits that they would receive under 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. Separate data obtained from the DOD actuary included zip code–level data estimating the impact of the Republican proposal on disabled veterans. Using these databases, the Special Investigations Division analyzed the impact of the Disabled Veterans Tax on veterans in the state and compared the benefits to veterans with those provided by the House Republican proposal.<sup>12</sup>

## **FINDINGS**

---

### **The Disabled Veterans Tax Affects Thousands of Veterans in New York**

There are 35,880 veterans in New York who receive military retirement benefits. Of these veterans, 6,833 veterans — 19% — also receive disability benefits from the VA and are subject to the Disabled Veterans Tax.

---

<sup>12</sup> The House Republican proposal would provide two benefits to two groups of veterans: those who would receive Combat-Related Special Compensation, and those who would receive relief from the disabled veterans tax. The DOD Actuary provided zip code–level data on the veterans affected by the disabled veterans tax, but could provide only national-level data on the veterans who would receive Combat-Related Special Compensation under the House Republican proposal. The analysis thus assumes that the distribution of these veterans by zip code is similar to the distribution of veterans who would receive relief from the Disabled Veterans Tax under the proposal. Electronic mail from DOD Actuary to Committee on Government Reform, Minority Staff (Oct. 21, 2003).

## **The Disabled Veterans Tax Costs Veterans in New York Millions of Dollars Annually**

Statewide, the Disabled Veterans Tax costs veterans \$2.9 million each month in lost disability benefits. This is equivalent to \$34.2 million annually.

On a per-veteran basis, the Disabled Veterans Tax costs each of the 6,833 impacted veterans in New York an average of \$5,010 annually.

The average retired veteran in New York receives retirement benefits of approximately \$12,900 annually. The Disabled Veterans Tax reduces benefits for affected veterans in the state by an estimated 28%.

Appendix 1 contains information on the effect of the Disabled Veterans Tax in each of the congressional districts in New York.

## **Legislation To Eliminate the Disabled Veterans Tax Would Have Significant Benefits in New York**

Legislation cosponsored by over 350 members of the House, 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 6,833 veterans in New York. These veterans would receive an increase in benefits of \$34.2 million annually.

## **The Republican Proposals to Reduce the Disabled Veterans Tax Would Provide Only Limited Help for Veterans**

House Republicans have proposed legislation that would phase out the Disabled Veterans Tax for a limited group of veterans over ten years. DOD data indicate that in 2004, this proposal would provide only \$8.7 million in relief from the Disabled Veterans Tax for only 1,827 veterans in New York. Even when fully phased in, in 2014, the legislation would provide only limited relief. Among the veterans in New York who are currently subject to the Disabled Veterans Tax, only 1,827 would be entitled to relief in 2014, and the total relief they receive would be limited to only \$21.3 million.<sup>13</sup>

Compared to the Republican proposal, the legislation sponsored by Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel, H.R. 303, provides significantly more relief from the Disabled Veterans Tax. Statewide,

---

<sup>13</sup> This figure is in 2004 dollars. Cost of living increases would increase the absolute amount received by veterans, but the inflation-adjusted value of these payments would remain the same.



## **The Disabled Veterans Tax Impacts Thousands of Veterans in New York**

H.R. 303 would provide benefits for almost four times as many veterans as the Republican proposal. In dollar terms, H.R. 303 would provide a total benefit of four times the size of the benefit provided under the Republican proposal in 2004.

### **CONCLUSION**

---

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 6,883 disabled veterans in New York are forced to pay the Disabled Veterans Tax. Reps. Bishop, Rangel, Slaughter, Lowey, Maloney, McCarthy, Crowley, and Israel have supported efforts to pass legislation that would eliminate the Disabled Veterans Tax for these veterans. This legislation is substantially more generous to veterans than the legislation supported by House Republicans.

**The Disabled Veterans Tax Impacts Thousands of Veterans in New York**

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

<b>District Number</b>	<b>Representative</b>	<b>Number of Veterans in District Who Lose Benefits to the Disabled Veterans Tax</b>	<b>Total Annual Lost Benefits</b>	<b>Average Lost Benefits Per Veteran</b>	<b>% of All Qualifying Retired Veterans in District Who Lose Benefits to the Disabled Veterans Tax</b>	<b>% of Affected Veterans Helped by House Republican Legislation</b>
NY-1	Timothy H. Bishop	159	\$808,034	\$5,075	13%	32%
NY-2	Steve Israel	111	\$559,298	\$5,039	10%	27%
NY-3	Peter T. King	87	\$431,623	\$4,966	9%	22%
NY-4	Carolyn McCarthy	104	\$444,058	\$4,277	13%	22%
NY-5	Gary L. Ackerman	48	\$250,718	\$5,238	11%	20%
NY-6	Gregory W. Meeks	112	\$532,664	\$4,770	16%	27%
NY-7	Joseph Crowley	51	\$227,482	\$4,497	12%	30%
NY-8	Jerrold Nadler	52	\$254,186	\$4,897	17%	27%
NY-9	Anthony D. Weiner	76	\$355,760	\$4,661	16%	28%
NY-10	Edolphus Towns	50	\$203,934	\$4,102	13%	33%
NY-11	Major R. Owens	48	\$169,268	\$3,554	15%	22%
NY-12	Nydia M. Velázquez	51	\$269,357	\$5,256	18%	32%
NY-13	Vito Fossella	93	\$517,675	\$5,591	11%	30%
NY-14	Carolyn B. Maloney	50	\$237,687	\$4,798	10%	20%
NY-15	Charles B. Rangel	65	\$324,025	\$4,989	21%	30%
NY-16	José E. Serrano	45	\$177,424	\$3,969	19%	31%
NY-17	Eliot L. Engel	77	\$307,820	\$4,020	14%	22%
NY-18	Nita M. Lowey	65	\$332,419	\$5,147	9%	30%
NY-19	Sue W. Kelly	263	\$1,263,703	\$4,802	16%	26%
NY-20	John E. Sweeney	475	\$2,429,070	\$5,119	17%	24%
NY-21	Michael R. McNulty	363	\$1,740,215	\$4,797	19%	29%
NY-22	Maurice D. Hinchey	308	\$1,611,962	\$5,227	20%	25%
NY-23	John M. McHugh	1,293	\$6,368,297	\$4,927	28%	25%
NY-24	Sherwood Boehlert	698	\$3,355,386	\$4,810	24%	21%
NY-25	James T. Walsh	483	\$2,496,050	\$5,172	21%	25%
NY-26	Thomas M. Reynolds	354	\$1,693,448	\$4,787	22%	28%
NY-27	Jack Quinn	314	\$1,529,500	\$4,872	19%	27%
NY-28	Louise McIntosh Slaughter	344	\$1,623,603	\$4,725	20%	30%
NY-29	Amo Houghton	509	\$2,630,900	\$5,166	22%	26%