

Approved: _____

Date

02/16/99

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Susan Wagle at 1:30 P.M. on February 4, 1999 in Room 313-S of the Capitol.

All members were present except: Rep. Mays, excused

Committee staff present: Theresa Kiernan, Revisor of Statutes
Mary Galligan, Legislative Research
Judy Swanson, Committee Secretary

Conferees appearing before the committee: Chuck Yunker, American Legion
Alfred Link, American Legion
Loren Adams, American Legion

Others attending: See attached list

Hearing was opened on **HR 6006**, Memorializing Congress to revise laws which prohibit a disabled military veteran from receiving both full retirement and disability compensation benefits.

Theresa Kiernan, Revisor of Statutes reviewed the resolution for committee members.

Chuck Yunker, American Legion, testified in favor of **HR 6006**. (Attachment 1) He said the current law goes back to before the Civil War when veterans got a much larger pension. In answer to a question from Rep. Edmonds, he said he thought the Federal Government should pay both disability and military retirement even though KPERS does not. He said in response to a question from Rep. Dahl that the disability payment would be in addition to retirement benefits. The VA is making it easier for veterans to establish their claims according to Yunker.

Alfred Link, American Legion, testified in favor of **HR 6006**. (Attachment 2) He said 18 states have passed a resolution similar to this proposed resolution.

Loren Adams, American Legion, also testified in favor of **HR 6006**. (Attachment 3). He gave several examples of how the current system works. He said he felt it is a misconception that this proposal would cost the government more money.

Rep. Edmonds raised the issue that the State KPERS Retirement System did not allow retirees to draw full retirement and disability pay. Rep. Dreher, Resolution sponsor, said even though the Federal and State Governments would not be handling the issue the same way, he thought that it should be passed.

Hearing on **HR 6006** was closed.

Steve Kearney, Kansas Automotive Recyclers, requested the Committee introduce a bill concerning title legislation. Rep. Mayans moved the Committee introduce a bill for the creation of a scraping certificate for autos that are 90% or more damaged, and a branded salvage title for autos damaged 65% or more. Rep. Faber seconded the motion. Motion carried.

Rep. Mayans made a motion to approve the minutes of the February 2 Committee meeting. Rep. Hutchins seconded the motion. Motion carried.

Meeting adjourned at 2:15 P.M.

**HOUSE FEDERAL & STATE AFFAIRS
GUEST LIST**

DATE: February 4, 1999

NAME	REPRESENTING
Charles M Yunker	Kansas American Legion
Alfred E Lunk	KS National Guard
Loren J. Adams	Retired Military
Erik Goodner	Intern / Rep. Ruff
STEVE KEANEY	KS AUTO RECYCLERS
XXXXXXXXXX	XXXXXXXXXX
Shayla Johnston	KTCA

TESTIMONY IN SUPPORT OF
HOUSE RESOLUTION 6006
PRESENTED TO
HOUSE FEDERAL AND STATE AFFAIRS
BY CHARLES M. YUNKER, DEPT. ADJUTANT
KANSAS AMERICAN LEGION

Thank you for allowing me the opportunity to testify in favor of House Resolution No. 6006. My name is Chuck Yunker and I serve The American Legion as its State Adjutant.

Would you choose a career with a company whose policy manual contained the following statement: "It is assumed that at some point in your career with our firm you will become disabled while on the job, however upon your retirement you shall only be entitled to the current retirement pay scale given your position with the firm at the time of your retirement; or if you are disabled to such a degree that your disability compensation exceeds your retirement pay the firm is not required to provide your retirement pay. Unless of course you are foolish enough to select to receive your retirement pay but not your higher disability pay." What if such a statement isn't readily found in a company's policy manual yet that company routinely gets away with enforcing it?

While my opening paragraph may seem a little far-fetched it is essentially the policy of our Federal government with respect to military retirees and it is a policy that is not widely known or disseminated. Current Federal policy allows military retirees to receive either their earned retirement pay or any disability compensation due them, or their retirement pay less an amount equal to their disability compensation.

However non veteran Federal employees injured on the job are not penalized by having to choose between retirement pay and disability

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compensation, or the reduction of their retirement pay by an amount equal to any disability compensation. Likewise, disabled veterans who leave military service and find other employment with the Federal government are, after working the required period of time, entitled to their full federal retirement pay plus any military related disability compensation due them.

HR 6006, a memorializing resolution, is an appropriate manner in which the Kansas Legislature can convey its collective view to Congress that military retirees whose normal occupations are more hazardous than their civilian Federal employee counterparts should not be denied receipt of their full retirement pay in addition to any disability compensation due them and that the Kansas Legislature believes to continue the current Federal policy with regard to military retirees is an injustice which should be corrected.

Again thank you for allowing me to testify in favor of HR 6006.

TESTIMONY OF ALFRED LINK FOR HR 6006

I am Alfred Link, a retired member of the Kansas National Guard and the Legislative Chairman of EANGK, the Enlisted Association of the National Guard of Kansas.

A person who has honorably and faithfully devoted most of his/her adult life to the defense of this nation may continue to sacrifice and relinquish their benefits even after he/she has fulfilled the requirements for retirement.

Those veterans who served their county for twenty or more years and incurred a disabling injury while fulfilling their patriotic duty are being discriminated against and penalized because of that injury. Such a veteran is denied concurrent dual receipt of full retirement pay and disability compensation benefits.

He/she is allowed only to receive retirement pay or disability compensation or must waive an amount of retirement pay equal to the amount of disability compensation benefits. That in effect is he/she paying for incurring the disabling condition while fulfilling his/her patriotic duty.

A disabled veteran who has held a non-military Federal occupation for the required period for retirement receives full retirement pay undiminished by the subtraction of disability compensation benefits.

A disabled veteran who has held a civilian occupation for the required period for retirement receives full retirement pay undiminished by the subtraction of disability compensation benefits

This is not a fair and equitable practice. I request you to pass this resolution requesting Congress to change those laws which prohibit a disabled military veteran from receiving both full retirement pay and disability compensation benefits.

So far eighteen states, including Missouri and Oklahoma have passed resolutions on concurrent receipt to remedy this inequity.

I want to thank my Representative, Stanley Dreher for introducing this resolution and I urge your support of this resolution.

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Laron Adams

Statement Concerning

The Concurrent Receipt of Military Retirement Pay and Disability Compensation

No employee, **either State or Federal**, who receives compensation for injury, wounds, health and/or medical problems, incurred during or aggravated by virtue of that employment, is required to forfeit **either**, their compensation or a portion of their earned retirement, for length of service, whether that entitlement be State or Federal, **except** those who have served in the Armed Forces of the United States of America.

This forfeiture **does not** apply to those who chose not to make a career of the military service and therefore are not entitled to retirement pay. This includes Kansas own illustrious, former United States Senator, The Honorable Bob Dole.

EXAMPLE 1. A man serves in Viet Nam and is exposed to Agent Orange. Upon completion of his enlistment he exits the military and enters the civilian work force as an employee of a federal agency. Twenty-five (25) years later this person develops Prostate Cancer which is directly attributed to the Agent Orange exposure. In addition to his Federal Retirement Benefits and Social Security, earned through other employment, he now may receive 40% compensation based on the cancer plus a small fixed amount from the resulting loss of a reproductive organ. These pays are additive and there is no offset of any kind.

EXAMPLE 2. A man with the same exposure decides to make the Military his career. He retires after 25 years of duty that has taken him around the world and caused many family separations. He starts drawing his military retirement and enters the work force working for a company that has no retirement plan. He is finally entitled to draw Social Security in addition to his retirement pay. However after the prostate surgery the VA offers him a 40% disability compensation and \$75 a month for loss of the reproductive organ. The VA must notify the military pay center which now will deduct the total compensation (40% + \$75) from his retired pay. Because the VA compensation is non taxable he does see a small increase overall.

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EXAMPLE 3. An individual develops Essential Hypertension (High Blood Pressure) while in service. The health problem is treatable with medication and the individual remains on active duty until retirement. After retirement he is denied treatment in a military facility and turns to the VA. The VA provides a 10% disability compensation and the required medical treatment. They report the compensation to the military pay center which now deducts a like amount from the retired pay. There is a small tax benefit to the individual.

One argument for this inequity is that the individual did not **directly** contribute to their military retirement. The fallacy of this lies in the fact that during the years of service their pay was lower than that of their civilian counterpart, because the equivalent of this contribution was considered to be a part of their benefit package which included medical and dental care.

This unfairness is now beginning to appear among our citizen soldiers of the Army and Air National Guard and the various military reserves. As they assume more and more of our national defense role in the Persian Gulf, Central America, Southeastern Europe and all the other hot spots around the world this will become an even greater issue.

The attached figures were computed for 1998 and were changed only slightly by the 1.3% cost of living increase.

EXAMPLE #2

Concurrent Military Retired Pay == FACTS

1998 Example: Retired E-6; 20 years Active Duty USAF

Entitled to receive	\$1036.00	(after rounding down)
USAF submits budget to DoD	\$1036.00	
DoD submits budget to Congress	\$1036.00	
Congress appropriates	\$1036.00	

Individual with a VA Disability rating of 100%

Individual is entitled to receive	\$1961.00	(after rounding down)
VA submits budget to Congress	\$1961.00	
Congress appropriates	\$1961.00	

Retired individual with a service connected rating of 100%

DoD Retired entitlement	\$1036.00
VA entitlement	<u>1961.00</u>
Total entitlement	\$2997.00

VA notifies DoD of entitlement and makes tax free payment to individual.

DoD deducts VA from Retired	\$1036.00
	<u>- 1961.00</u>
Individual receives	\$ 0.00

Branch of Service/DoD keeps \$1036.00 which is now carried as unbudgeted surplus funds.

Federal Government receives taxes on \$0.00 rather than the projected \$1036.00

The retirement pay will change with rank and length of service, but the calculation procedures will remain the same.

VA Disability Compensation IS NOT based on rank or service.

EXAMPLE #1

Concurrent Military Retired Pay == FACTS

1997 Example: Retired E-6; 20 years Active Duty USAF

Entitled to receive	\$1015.00	(after rounding down = 98¢ forfeit)
USAF submits budget to DoD	\$1015.00	
DOD submits budget to Congress	\$1015.00	
Congress appropriates	\$1015.00	

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Individual with a VA Disability rating of 20% Only

Individual is intitled to receive	\$274.00	(after rounding down = 55¢ forfeit)
VA submits budget to Congress	\$274.00	
Congress appropriates	\$274.00	

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Retired individual with a service connected rating of 20%

DOD Retired entitlement	\$1015.00	
VA entitlement	<u>274.00</u>	
Total entitlement	\$1289.00	(\$1.51 forfeit to rounding down)

VA notifies DOD of entitlement and makes tax free payment to individual.

DOD deducts VA from Retired	\$1015.00
	<u>- 274.00</u>
Individual receives	\$ 741.00

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Branch of Service/Department of Defense keeps **\$274.00** which is now carried as unbugeted surplus funds.

Federal Government receives taxes on **\$741.00** rather than the projected **\$1015.00**