

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS35596-LL-274 (1/14)**

Short Title: Disability Income/Eliminate Veterans Offset. (Public)

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Sponsors: Senator Berger of Rockingham.

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Referred to:

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A BILL TO BE ENTITLED

1 AN ACT TO ELIMINATE THE OFFSET IN THE SHORT-TERM AND  
2 LONG-TERM DISABILITY INCOME PLANS FOR BENEFITS RECEIVED  
3 FROM THE DEPARTMENT OF VETERANS AFFAIRS FOR THE SAME  
4 DISABILITY.  
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6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 135-105(c) reads as rewritten:

8 "(c) The monthly benefit as provided in subsection (a) of this section shall be  
9 equal to fifty percent (50%) of 1/12th of the annual base rate of compensation last  
10 payable to the participant prior to the beginning of the short-term benefit period as may  
11 be adjusted for percentage increases as provided under G.S. 135-108 plus fifty percent  
12 (50%) of 1/12th of the annual longevity payment to which the participant would be  
13 eligible, to a maximum of three thousand dollars (\$3,000) per month reduced by  
14 monthly payments for Workers' Compensation to which the participant may be entitled.  
15 The monthly benefit shall be further reduced by the amount of any payments from ~~the~~  
16 ~~federal Veterans Administration, any other federal agency,~~ any federal department or  
17 agency other than the Department of Veterans Affairs, or any payments made under the  
18 provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on  
19 account of the same disability. Provided, that should a participant have earnings in an  
20 amount greater than the short-term benefit, the amount of the short-term benefit shall be  
21 reduced on a dollar-for-dollar basis by the amount that exceeds the short-term benefit."

22 **SECTION 2.** G.S. 135-106(b) reads as rewritten:

23 "(b) After the commencement of benefits under this section, the benefits payable  
24 under the terms of this section during the first 36 months of the long-term disability  
25 period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of  
26 compensation last payable to the participant or beneficiary prior to the beginning of the  
27 short-term disability period as may be adjusted for percentage increases as provided

1 under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity  
2 payment to which the participant or beneficiary would be eligible, to a maximum of  
3 three thousand nine hundred dollars (\$3,900) per month reduced by any primary Social  
4 Security disability benefits and by monthly payments for Workers' Compensation to  
5 which the participant or beneficiary may be entitled. The monthly benefit shall be  
6 further reduced by the amount of any monthly payments from ~~the federal Department of~~  
7 ~~Veterans Affairs, any other federal agency~~ any federal department or agency other than  
8 the Department of Veterans Affairs, or any payments made under the provisions of  
9 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of  
10 the same disability. Provided, in any event, the benefit payable shall be no less than ten  
11 dollars (\$10.00) a month. However, a disabled participant may elect to receive any  
12 salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits;  
13 provided such election shall not extend the first 36 consecutive calendar months of the  
14 long-term disability period. An election to receive any salary continuation for any part  
15 of any given day shall be in lieu of any long-term benefit payable for that day, provided  
16 further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or  
17 participant had exhausted the leave and shall be in lieu of any long-term benefit  
18 otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced  
19 during the first 36 months of the long-term disability period by an amount, as  
20 determined by the Board of Trustees, equal to a primary Social Security retirement  
21 benefit to which the beneficiary might be entitled.

22 After 36 months of long-term disability, no further benefits are payable under the  
23 terms of this section unless the member has been approved and is in receipt of primary  
24 Social Security disability benefits. In that case the benefits payable shall be equal to  
25 sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable  
26 to the participant or beneficiary prior to the beginning of the short-term disability period  
27 as may be adjusted for percentage increases as provided under G.S. 135-108, plus  
28 sixty-five percent (65%) of 1/12th of the annual longevity payment to which the  
29 participant or beneficiary would be eligible, to a maximum of three thousand nine  
30 hundred dollars (\$3,900) per month reduced by the primary Social Security disability  
31 benefits and by monthly payments for Workers' Compensation to which the participant  
32 or beneficiary may be entitled. The monthly benefit shall be further reduced by the  
33 amount of any monthly payments from the federal Department of Veterans Affairs, for  
34 payments from any other federal agency, or for any payments made under the  
35 provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on  
36 account of the same disability. Provided, in any event, the benefit payable shall be no  
37 less than ten dollars (\$10.00) a month.

38 Notwithstanding the foregoing, the long-term disability benefit is payable so long as  
39 the beneficiary is disabled and is in receipt of a primary Social Security disability  
40 benefit until the earliest date at which the beneficiary is eligible for an unreduced  
41 service retirement allowance from the Retirement System, at which time the beneficiary  
42 would receive a retirement allowance calculated on the basis of the beneficiary's  
43 average final compensation at the time of disability as adjusted to reflect compensation  
44 increases subsequent to the time of disability and the creditable service accumulated by

1 the beneficiary, including creditable service while in receipt of benefits under the Plan.  
2 In the event the beneficiary has not been approved and is not in receipt of a primary  
3 Social Security disability benefit, the long-term disability benefit shall cease after the  
4 first 36 months of the long-term disability period. However, a beneficiary shall be  
5 entitled to a restoration of the long-term disability benefit in the event the Social  
6 Security Administration grants a retroactive approval for primary Social Security  
7 disability benefits with a benefit effective date within the first 36 months of the  
8 long-term disability period. In such event, the long-term disability benefit shall be  
9 restored retroactively to the date of cessation."

10 **SECTION 3.** This act becomes effective July 1, 2008, and applies to  
11 disability benefits paid on or after that date.