

To the office of U.S. Senator Ruben Gallego

Re: S 5367 (119th Congress), Restore Veterans' Compensation Act of 2026 • Latest action (2026-08-07): Read twice and referred to the Committee on Veterans' Affairs.

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Veterans Financial Security and Recoupment Reform Act of 2025

The measure, as described from the official record: To stop the Department of Defense from clawing back separation pay, special separation benefits, or voluntary separation incentive payments from veterans who later receive VA disability compensation, and to limit such claw-backs when veterans later receive military retirement pay, so that service members are not financially penalized for service-connected disabilities.

THE PROPOSAL

This bill ends the requirement that the Department of Defense recoup separation pay, special separation benefits, or voluntary separation incentive payments from a former member of the Armed Forces who later becomes eligible for disability compensation from the Department of Veterans Affairs. The prohibition applies to all disability claims filed after the date of enactment, and it specifically restores any amounts previously recouped from veterans whose claims were filed within the last five years before enactment.

To prevent double-dipping and preserve fiscal discipline, the bill limits recoupment when a former member later receives military retired or retainer pay. Recoupment is prohibited entirely if the veteran's disability rating is 50 percent or higher, or if the retirement is based on a service-connected disability. In all other cases, recoupment of separation pay is allowed but only on a pro-rated basis, reducing the amount owed by 10 percentage points for each disability rating point above 0, so that a veteran with a 30 percent rating repays only 70 percent of the original separation pay.

Funding for this reform comes from a transfer of up to \$600 million per fiscal year from the Department of Defense's Operation and Maintenance account to the Department of Veterans Affairs, specifically to the Veterans Benefits Administration. This transfer is capped at \$3 billion over five years. The Secretaries of Defense and Veterans Affairs shall jointly issue regulations within 180 days of enactment, and the Comptroller General shall conduct an annual audit and report to Congress on the number of veterans affected, amounts restored, and any identified instances of fraud or double-dipping.

These provisions sunset after five years unless Congress reauthorizes them by a new law. During the sunset period, the Comptroller General shall evaluate the fiscal impact and recommend whether to extend, modify, or terminate the policy. Any veteran who believes recoupment was

taken in violation of this act may file a claim under the Administrative Procedure Act in federal court, and the court may award reasonable attorney's fees.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Transfer of funds from the Department of Defense's Operation and Maintenance account to the Veterans Benefits Administration, authorized under the annual Department of Defense Appropriations Act.
Funding Amount	\$600 million per fiscal year, capped at \$3 billion over five years.
Sunset Years	5 years
Oversight Body	Comptroller General of the United States, reporting annually to the House and Senate Committees on Armed Services and Veterans' Affairs.
Enforcement Mechanism	Joint regulations by the Secretaries of Defense and Veterans Affairs; individual challenges in federal court under the Administrative Procedure Act; GAO audit and fraud referral to the Department of Justice.
Effective Date	180 days after enactment.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 11 (power to declare war and raise armies)
- Article I, Section 8, Clause 12 (power to raise and support armies, with two-year appropriation limit)
- Article I, Section 8, Clause 13 (power to provide and maintain a Navy)
- Article I, Section 8, Clause 14 (power to make rules for the government and regulation of land and naval forces)
- Article I, Section 8, Clause 18 (necessary and proper clause)

Concerns with the measure as written:

- The original bill lacks a fiscal offset, potentially requiring deficit spending beyond the two-year appropriation limit for military pay under Article I, Section 8, Clause 12.
 - The indefinite prohibition on recoupment may encourage double-dipping in cases where a veteran receives both separation pay and retirement pay for the same period of service, implicating the government's duty to prevent fraudulent claims under the Necessary and Proper Clause.
 - No sunset or reporting requirement means that if the policy proves too costly or leads to abuse, Congress has no automatic review mechanism.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

For Democrats: Protects veterans from financial hardship caused by recoupment of separation pay when they later receive VA disability compensation, and restores funds to veterans harmed in the past. For Republicans: Provides a hard budget cap, requires a sunset review, and retains recoupment for non-severe disability cases to prevent double-dipping, ensuring fiscal responsibility and accountability.

