

118TH CONGRESS
1ST SESSION

H. R. 3489

To amend title 10, United States Code, to eliminate the recoupment of separation pay, special separation benefits, and voluntary separation incentive payments from members of the Armed Forces who subsequently receive disability compensation under laws administered by the Department of Veterans Affairs and to impose limitations on the authority of the Secretary of Defense to recoup such pay from members who subsequently receive military retired or retainer pay.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2023

Mr. GALLEGO (for himself, Mr. BILIRAKIS, and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 10, United States Code, to eliminate the recoupment of separation pay, special separation benefits, and voluntary separation incentive payments from members of the Armed Forces who subsequently receive disability compensation under laws administered by the Department of Veterans Affairs and to impose limitations on the authority of the Secretary of Defense to recoup such pay from members who subsequently receive military retired or retainer pay.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restore Veterans’
5 Compensation Act of 2023”.

6 **SEC. 2. RECOUPMENT OF SEPARATION PAY, SPECIAL SEPA-**
7 **RATION BENEFITS, VOLUNTARY SEPARATION**
8 **INCENTIVE, AND VOLUNTARY SEPARATION**
9 **PAY AND BENEFITS FROM MEMBERS OF THE**
10 **ARMED FORCES.**

11 (a) SEPARATION PAY UPON INVOLUNTARY DIS-
12 CHARGE OR RELEASE FROM ACTIVE DUTY AND SPECIAL
13 SEPARATION BENEFITS.—

14 (1) ELIMINATION OF RECOUPMENT FROM MEM-
15 BERS RECEIVING VETERANS DISABILITY COMPENSA-
16 TION.—Paragraph (2) of section 1174(h) of title 10,
17 United States Code, is amended to read as follows:

18 “(2)(A) A member who has received separation pay
19 under this section, or severance pay or readjustment pay
20 under any other provision of law, based on service in the
21 armed forces shall not be deprived, by reason of the receipt
22 of such separation pay, severance pay, or readjustment
23 pay, of any disability compensation to which the member
24 is entitled under the laws administered by the Department
25 of Veterans Affairs.

1 “(B) The amount of disability compensation to which
2 a member may be entitled under the laws administered
3 by the Department of Veterans Affairs may not be re-
4 duced on account of the receipt of separation pay, sever-
5 ance pay, or readjustment pay.”.

6 (2) RECOUPMENT FROM MEMBERS RECEIVING
7 RETIRED OR RETAINER PAY LIMITED TO NET
8 AMOUNT OF SEPARATION PAY.—Section 1174(h)(1)
9 of title 10, United States Code, is amended by in-
10 sserting before the period at the end the following: “,
11 less the amount of Federal income tax withheld from
12 the separation pay, severance pay, or readjustment
13 pay (such withholding being at the flat withholding
14 rate for Federal income tax withholding, as in effect
15 pursuant to regulations prescribed under chapter 24
16 of the Internal Revenue Code of 1986)”.

17 (3) PERCENTAGE LIMITATIONS ON
18 RECOUPMENT FROM MEMBERS RECEIVING RETIRED
19 OR RETAINER PAY AND RECOUPMENT PROCESS.—
20 Section 1174(h)(1) of title 10, United States Code,
21 as amended by paragraph (2), is further amended—

22 (A) by inserting “(A)” after “(1)”;

23 (B) by striking “shall specify, taking into
24 account the financial ability of the member to
25 pay and avoiding the imposition of undue finan-

1 cial hardship on the member and member’s de-
2 pendents,” and inserting “(subject to subpara-
3 graph (B)) shall specify”; and

4 (C) by adding at the end the following new
5 subparagraphs:

6 “(B) The amount deducted under subparagraph (A)
7 from a payment of retired or retainer pay may not exceed
8 25 percent of the amount of the member’s retired or re-
9 tainer pay for that month unless the member requests de-
10 ductions at an accelerated rate. The Secretary of Defense
11 shall consult with the member regarding the repayment
12 rate to be imposed, taking into account the financial abil-
13 ity of the member to pay and avoiding the imposition of
14 an undue hardship on the member and the member’s de-
15 pendents.

16 “(C) The deduction of amounts from the retired or
17 retainer pay of a member under this paragraph may not
18 commence until the date that is 90 days after the date
19 on which the Secretary of Defense notifies the member
20 of the deduction of such amounts under this paragraph.
21 Any notice under this subparagraph shall be designed to
22 provide clear and comprehensive information on the de-
23 duction of amounts under this paragraph, including infor-
24 mation on the determination of the amount and period of
25 installments under this paragraph.

1 “(D) The Secretary of Defense may waive the deduc-
2 tion of amounts from the retired or retainer pay of a mem-
3 ber under this paragraph if the Secretary determines that
4 deduction of such amounts would result in a financial
5 hardship for the member.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) VOLUNTARY SEPARATION INCENTIVE.—Sec-
8 tion 1175(e) of title 10, United States Code, is
9 amended—

10 (A) in paragraph (3)(A)—

11 (i) by striking the first sentence and
12 inserting the following new sentence: “Sub-
13 section (h) of section 1174 of this title
14 shall apply to any member who has re-
15 ceived the voluntary separation incentive
16 and who later qualifies for retired or re-
17 tainer pay under this title or for disability
18 compensation under the laws administered
19 by the Department of Veterans Affairs.”;
20 and

21 (ii) in the second sentence, by striking
22 “the deduction required under the pre-
23 ceding sentence” and inserting “the deduc-
24 tion from the member’s retired or retainer
25 pay”; and

1 (B) by striking paragraph (4) and redesignig-
2 nating paragraph (5) as paragraph (4).

3 (2) VOLUNTARY SEPARATION PAY AND BENE-
4 FITS.—Subsection (h) of section 1175a of title 10,
5 United States Code, is amended to read as follows:
6 “(h) COORDINATION WITH RETIRED OR RETAINER
7 PAY AND DISABILITY COMPENSATION.—(1) Subsection
8 (h) of section 1174 of this title shall apply to any member
9 who receives voluntary separation pay under this section
10 and who later qualifies for retired or retainer pay under
11 this title or title 14 or for disability compensation under
12 the laws administered by the Department of Veterans Af-
13 fairs.

14 “(2) No deduction shall be made from the disability
15 compensation paid to an eligible disabled uniformed serv-
16 ices retiree under section 1413, or to an eligible combat-
17 related disabled uniformed services retiree under section
18 1413a of this title, who is paid voluntary separation pay
19 under this section.

20 “(3) The requirement under this subsection to repay
21 voluntary separation pay following retirement from the
22 armed forces does not apply to a member who was eligible
23 to retire at the time the member applied and was accepted
24 for voluntary separation pay and benefits under this sec-
25 tion.”.

1 (c) EFFECTIVE DATE AND APPLICATION OF AMEND-
2 MENTS.—The amendments made by this section shall take
3 effect on the first day of the first month beginning on or
4 after the date of the enactment of this Act. In the case
5 of deductions to be made from the retired or retainer pay
6 of members of the uniformed services, the amendments
7 shall apply to that month and subsequent months.

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