

111TH CONGRESS  
1ST SESSION

# H. R. 2771

To amend titles 10 and 37, United States Code, to provide a more equitable process by which the military departments may recover overpayments of military pay and allowances erroneously paid to a member of the Armed Forces when the overpayment is due to no fault of the member, to expand Department discretion regarding remission or cancellation of indebtedness, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2009

Ms. SHEA-PORTER (for herself, Ms. MOORE of Wisconsin, Mr. MASSA, and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Armed Services

---

## A BILL

To amend titles 10 and 37, United States Code, to provide a more equitable process by which the military departments may recover overpayments of military pay and allowances erroneously paid to a member of the Armed Forces when the overpayment is due to no fault of the member, to expand Department discretion regarding remission or cancellation of indebtedness, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Military Overpayment  
3 Fairness Act of 2009”.

4 **SEC. 2. LIMITATIONS ON COLLECTION OF OVERPAYMENTS**  
5 **OF PAY AND ALLOWANCES ERRONEOUSLY**  
6 **PAID TO MEMBERS.**

7       (a) MAXIMUM MONTHLY PERCENTAGE OF MEM-  
8 BER’S PAY AUTHORIZED FOR DEDUCTION.—Paragraph  
9 (3) of subsection (c) of section 1007 of title 37, United  
10 States Code, is amended by striking “20 percent” and in-  
11 serting “10 percent”.

12       (b) CONSULTATION REGARDING DEDUCTION OR RE-  
13 PAYMENT TERMS.—Such paragraph is further amended—

14               (1) by inserting “(A)” after “(3)”; and

15               (2) by adding at the end the following new sub-  
16 paragraph:

17       “(B) In all cases described in subparagraph (A), the  
18 Secretary concerned shall consult with the member regard-  
19 ing the repayment rate to be imposed under such subpara-  
20 graph to recover the indebtedness, taking into account the  
21 financial ability of the member to pay and avoiding the  
22 imposition of an undue hardship on the member and the  
23 member’s dependents.”.

24       (c) DELAY IN INSTITUTING COLLECTIONS FROM  
25 WOUNDED OR INJURED MEMBERS.—Paragraph (4) of  
26 such subsection is amended to read as follows:

1       “(4) Unless a member of the uniformed services re-  
2       quests or consents to initiation of the collection of an over-  
3       payment of pay or allowances made to the member at an  
4       earlier date, if a member is injured or wounded by hostile  
5       fire, explosion of a hostile mine, or any other hostile action  
6       or, while in the line of duty, otherwise incurs a wound,  
7       injury, or illness in a combat operation or combat zone  
8       designated by the Secretary of Defense, any overpayment  
9       of pay or allowances made to the member while the mem-  
10      ber recovers from the wound, injury, or illness may not  
11      be deducted from the member’s pay until the later of—

12               “(A) the end of the 180-day period beginning  
13              on the date of the completion of the tour of duty of  
14              the member in the combat operation or combat zone,  
15              if the member is not removed from the theater of  
16              operations for medical treatment; or

17               “(B) the end of the 90-day period beginning on  
18              the date of the reassignment of the member from a  
19              military treatment facility or other medical unit, if  
20              the member is removed from the theater of oper-  
21              ations for treatment.”.

22      (d) IMPOSITION OF STATUTE OF LIMITATIONS ON  
23      SEEKING REPAYMENT.—Such subsection is further  
24      amended by adding at the end the following new para-  
25      graph:

1       “(5) The Secretary concerned may not deduct from  
2 the pay of a member of the uniformed services or other-  
3 wise recover, seek to recover, or assist in the recovery from  
4 a member or former member any overpayment of pay or  
5 allowances made to the member through no fault of the  
6 member unless the Secretary notifies the member of the  
7 indebtedness before the end of the five-year period begin-  
8 ning on the date on which the overpayment was made.  
9 If the notice is not provided before the end of such period,  
10 the Secretary concerned shall cancel the indebtedness of  
11 the member to the United States.”.

12       (e) EXPANDED DISCRETION REGARDING REMISSION  
13 OR CANCELLATION OF INDEBTEDNESS.—

14           (1) ARMY.—Section 4837(a) of title 10, United  
15 States Code, is amended by striking “, but only if  
16 the Secretary considers such action to be in the best  
17 interest of the United States.” and inserting “if the  
18 Secretary determines that the person—

19           “(1) relies on social security benefits or dis-  
20 ability compensation under title 38 (or a combina-  
21 tion thereof) for more than half of the person’s an-  
22 nual income; or

23           “(2) would suffer an undue hardship in repay-  
24 ing the indebtedness.”.

1           (2) NAVAL SERVICE.—Section 6161(a) of such  
2 title is amended by striking “, but only if the Sec-  
3 retary considers such action to be in the best inter-  
4 est of the United States.” and inserting “if the Sec-  
5 retary determines that the person—

6           “(1) relies on social security benefits or dis-  
7 ability compensation under title 38 (or a combina-  
8 tion thereof) for more than half of the person’s an-  
9 nual income; or

10          “(2) would suffer an undue hardship in repay-  
11 ing the indebtedness.”.

12          (3) AIR FORCE.—Section 9837(a) of such title  
13 is amended by striking “, but only if the Secretary  
14 considers such action to be in the best interest of the  
15 United States.” and inserting “if the Secretary de-  
16 termines that the person—

17          “(1) relies on social security benefits or dis-  
18 ability compensation under title 38 (or a combina-  
19 tion thereof) for more than half of the person’s an-  
20 nual income; or

21          “(2) would suffer an undue hardship in repay-  
22 ing the indebtedness.”.

23          (f) EFFECTIVE DATES.—

24          (1) REDUCED PAYMENT RATE.—The amend-  
25 ment made by subsection (a) shall take effect on the

1 first day of the first month beginning on or after the  
2 date of the enactment of this Act and apply to de-  
3 ductions made from the pay of members of the uni-  
4 formed services for that month and subsequent  
5 months.

6 (2) OTHER AMENDMENTS.—The other amend-  
7 ments made by this section shall apply with respect  
8 to any indebtedness of a member of the uniformed  
9 services for the overpayment of pay or allowances  
10 made to the member through no fault of the mem-  
11 ber, whether incurred before, on, or after the date  
12 of the enactment of this Act.

○