

112TH CONGRESS
2D SESSION

S. 3692

To amend title 32, United States Code, to authorize National Guard support for State and local efforts to keep schools safe from violence, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2012

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 32, United States Code, to authorize National Guard support for State and local efforts to keep schools safe from violence, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Save Our Students
5 Act”.

1 **SEC. 2. NATIONAL GUARD SUPPORT FOR STATE AND LOCAL**
2 **EFFORTS TO KEEP SCHOOLS SAFE FROM VIO-**
3 **LENCE.**

4 (a) IN GENERAL.—Chapter 1 of title 32, United
5 States Code, is amended by inserting after section 112 the
6 following new section:

7 **“§ 112a. Support for State and local efforts to keep**
8 **schools safe from violence**

9 “(a) FUNDING ASSISTANCE.—The Secretary of De-
10 fense may provide funds to the Governor of a State who
11 submits to the Secretary a plan for the National Guard
12 to supplement State and local efforts to keep schools safe
13 from violence that satisfies the requirements of subsection
14 (c). Such funds shall be used for the following:

15 “(1) The pay, allowances, clothing, subsistence,
16 gratuities, travel, and related expenses, as author-
17 ized by State law, of personnel of the National
18 Guard of that State used, while not in Federal serv-
19 ice, for the purpose of supplementing State and local
20 efforts to keep schools safe from violence.

21 “(2) The operation and maintenance of the
22 equipment and facilities of the National Guard of
23 that State used for the purpose of supplementing
24 State and local efforts to keep schools safe from vio-
25 lence.

1 “(3) The procurement of services and equip-
2 ment, and the leasing of equipment, for the National
3 Guard of that State used for the purpose of
4 supplementing State and local efforts to keep schools
5 safe from violence. However, the use of such funds
6 for the procurement of equipment may not exceed
7 \$5,000 per item, unless approval for procurement of
8 equipment in excess of that amount is granted in ad-
9 vance by the Secretary of Defense.

10 “(b) USE OF PERSONNEL PERFORMING FULL-TIME
11 NATIONAL GUARD DUTY.—(1) Under regulations pre-
12 scribed by the Secretary of Defense, personnel of the Na-
13 tional Guard of a State may, in accordance with the plan
14 referred to in subsection (c) with respect to the State con-
15 cerned, be ordered to perform full-time National Guard
16 duty under section 502(f) of this title for the purpose of
17 supplementing State and local efforts to keep schools safe
18 from violence.

19 “(2)(A) A member of the National Guard serving on
20 full-time National Guard duty under orders authorized
21 under paragraph (1) shall participate in the training re-
22 quired under section 502(a) of this title in addition to the
23 duty performed for the purpose authorized under that
24 paragraph. The pay, allowances, and other benefits of the
25 member while participating in the training shall be the

1 same as those to which the member is entitled while per-
2 forming duty for the purpose of supplementing State and
3 local efforts to keep schools safe from violence. The mem-
4 ber is not entitled to additional pay, allowances, or other
5 benefits for participation in training required under sec-
6 tion 502(a)(1) of this title.

7 “(B) To ensure that the use of units and personnel
8 of the National Guard of a State pursuant to a plan re-
9 ferred to in subsection (c) does not degrade the training
10 and readiness of such units and personnel, the following
11 requirements shall apply in determining the activities
12 supplementing State and local efforts to keep schools safe
13 from violence that units and personnel of the National
14 Guard of a State may perform:

15 “(i) The performance of the activities may not
16 adversely affect the quality of that training or other-
17 wise interfere with the ability of a member or unit
18 of the National Guard to perform the military func-
19 tions of the member or unit.

20 “(ii) National Guard personnel will not degrade
21 their military skills as a result of performing the ac-
22 tivities.

23 “(iii) The performance of the activities will not
24 result in a significant increase in the cost of train-
25 ing.

1 “(iv) In the case of activities supplementing
2 State and local efforts to keep schools safe from vio-
3 lence that are performed by a unit organized to
4 serve as a unit, the activities will support valid unit
5 training requirements.

6 “(3) A unit or member of the National Guard of a
7 State may be used, pursuant to a plan referred to in sub-
8 section (c) that is approved by the Secretary of Defense
9 under this section, to provide services or other assistance
10 (other than air transportation) to an organization eligible
11 to receive services under section 508 of this title if—

12 “(A) the plan specifically recognizes the organi-
13 zation as being eligible to receive the services or as-
14 sistance;

15 “(B) in the case of services, the performance of
16 the services meets the requirements of paragraphs
17 (1) and (2) of subsection (a) of section 508 of this
18 title; and

19 “(C) the services or assistance is authorized
20 under subsection (b) or (c) of such section or in the
21 plan.

22 “(c) PLAN REQUIREMENTS.—A plan to supplement
23 State and local efforts to keep schools safe from violence
24 under this subsection shall—

1 “(1) specify how personnel of the National
2 Guard of that State are to be used in supplementing
3 State and local efforts to keep schools safe from vio-
4 lence;

5 “(2) certify that those operations are to be con-
6 ducted at a time when the personnel involved are not
7 in Federal service;

8 “(3) certify that participation by National
9 Guard personnel in those operations is service in ad-
10 dition to training required under section 502 of this
11 title;

12 “(4) certify that any engineer-type activities (as
13 defined by the Secretary of Defense) under the plan
14 will be performed only by units and members of the
15 National Guard;

16 “(5) include a certification by the Attorney
17 General of the State (or, in the case of a State with
18 no position of Attorney General, a civilian official of
19 the State equivalent to a State attorney general)
20 that the use of the National Guard of the State for
21 the activities proposed under the plan is authorized
22 by, and is consistent with, State law; and

23 “(6) certify that the Governor of the State or
24 a civilian law enforcement official of the State des-
25 ignated by the Governor has determined that any ac-

1 tivities included in the plan that are carried out in
2 conjunction with Federal law enforcement agencies
3 serve a State law enforcement purpose.

4 “(d) EXAMINATION OF PLAN.—(1) Before funds are
5 provided to the Governor of a State under this section and
6 before members of the National Guard of that State are
7 ordered to full-time National Guard duty as authorized in
8 subsection (b), the Secretary of Defense shall examine the
9 adequacy of the plan submitted by the Governor under
10 subsection (c).

11 “(2) Except as provided in paragraph (3), the Sec-
12 retary of Defense shall carry out paragraph (1) in con-
13 sultation with the Secretary of Education.

14 “(3) Paragraph (2) shall not apply if—

15 “(A) the Governor of a State submits a plan
16 under subsection (c) that is substantially the same
17 as a plan submitted for that State for a previous fis-
18 cal year; and

19 “(B) pursuant to the plan submitted for a pre-
20 vious fiscal year, funds were provided to the State
21 in accordance with subsection (a) or personnel of the
22 National Guard of the State were ordered to per-
23 form full-time National Guard duty in accordance
24 with subsection (b).

1 “(e) END STRENGTH LIMITATION.—(1) Except as
2 provided in paragraph (2), at the end of a fiscal year there
3 may not be more than 4,000 members of the National
4 Guard—

5 “(A) on full-time National Guard duty under
6 section 502(f) of this title to perform activities
7 supplementing State and local efforts to keep schools
8 safe from violence pursuant to an order to duty; or

9 “(B) on duty under State authority to activities
10 supplementing State and local efforts to keep schools
11 safe from violence pursuant to an order to duty with
12 State pay and allowances being reimbursed with
13 funds provided under subsection (a)(1).

14 “(2) The Secretary of Defense may increase the end
15 strength authorized under paragraph (1) by not more than
16 20 percent for any fiscal year if the Secretary determines
17 that such an increase is necessary in the national security
18 interests of the United States.

19 “(f) ANNUAL REPORT.—The Secretary of Defense
20 shall submit to Congress on an annual basis a report re-
21 garding the assistance provided and activities carried out
22 under this section during the preceding fiscal year. Each
23 report shall include the following:

1 “(1) The number of members of the National
2 Guard excluded under subsection (e)(1) from the
3 computation of end strengths.

4 “(2) A description of the activities to supple-
5 ment State and local efforts to keep schools safe
6 from violence that were conducted under plans re-
7 ferred to in subsection (c) with funds provided under
8 this section.

9 “(3) An accounting of the amount of funds pro-
10 vided to each State.

11 “(4) A description of the effect on military
12 training and readiness of using units and personnel
13 of the National Guard to perform activities under
14 the plans to supplement State and local efforts to
15 keep schools safe from violence.

16 “(g) STATUTORY CONSTRUCTION.—Nothing in this
17 section shall be construed as a limitation on the authority
18 of any unit of the National Guard of a State, when such
19 unit is not in Federal service, to perform law enforcement
20 functions authorized to be performed by the National
21 Guard by the laws of the State concerned.

22 “(h) DEFINITIONS.—In this section:

23 “(1) The term ‘Governor of a State’ means, in
24 the case of the District of Columbia, the Com-

1 manding General of the National Guard of the Dis-
2 trict of Columbia.

3 “(2) The term ‘State’ means each of the several
4 States, the District of Columbia, the Commonwealth
5 of Puerto Rico, or a territory or possession of the
6 United States.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 1 of such title is amended by
9 inserting after the item relating to section 112 the fol-
10 lowing new item:

“112a. Support for State and local efforts to keep schools safe from violence.”.

