

113TH CONGRESS
1ST SESSION

S. 145

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

JANUARY 24 (legislative day, JANUARY 3), 2013

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.—

10 “(1) PLAN REQUIREMENT.—The Secretary of
11 Defense may provide funds to the Governor of a
12 State who submits to the Secretary a plan for using
13 National Guard personnel for the sole purposes of—

14 “(A) performing administrative functions
15 otherwise performed by State and local law en-
16 forcement personnel for purposes of enabling
17 such law enforcement personnel to be dis-
18 patched to keep schools and students safe from
19 violence;

20 “(B) helping conduct school security as-
21 sessments and safety plans; and

22 “(C) conducting capital improvements re-
23 lated to enhancing school and student safety.

24 “(2) USE OF FUNDS.—Such funds shall be used
25 for the following:

1 “(A) The pay, allowances, clothing, sub-
2 sistence, gratuities, travel, and related expenses,
3 as authorized by State law, of personnel of the
4 National Guard of that State used, while not in
5 Federal service, for the purpose of
6 supplementing State and local efforts to keep
7 schools safe from violence.

8 “(B) The operation and maintenance of
9 the equipment and facilities of the National
10 Guard of that State used for the purpose of
11 supplementing State and local efforts to keep
12 schools safe from violence.

13 “(C) The procurement of services and
14 equipment, and the leasing of equipment, for
15 the National Guard of that State used for the
16 purpose of supplementing State and local ef-
17 forts to keep schools safe from violence. How-
18 ever, the use of such funds for the procurement
19 of equipment may not exceed \$5,000 per item,
20 unless approval for procurement of equipment
21 in excess of that amount is granted in advance
22 by the Secretary of Defense.

23 “(b) USE OF PERSONNEL PERFORMING FULL-TIME
24 NATIONAL GUARD DUTY.—(1) Under regulations pre-
25 scribed by the Secretary of Defense, personnel of the Na-

1 tional Guard of a State may, in accordance with the plan
2 referred to in subsection (c) with respect to the State con-
3 cerned, be ordered to perform full-time National Guard
4 duty under section 502(f) of this title for the purpose of
5 supplementing State and local efforts to keep schools safe
6 from violence.

7 “(2)(A) A member of the National Guard serving on
8 full-time National Guard duty under orders authorized
9 under paragraph (1) shall participate in the training re-
10 quired under section 502(a) of this title in addition to the
11 duty performed for the purpose authorized under that
12 paragraph. The pay, allowances, and other benefits of the
13 member while participating in the training shall be the
14 same as those to which the member is entitled while per-
15 forming duty for the purpose of supplementing State and
16 local efforts to keep schools safe from violence. The mem-
17 ber is not entitled to additional pay, allowances, or other
18 benefits for participation in training required under sec-
19 tion 502(a)(1) of this title.

20 “(B) To ensure that the use of units and personnel
21 of the National Guard of a State pursuant to a plan re-
22 ferred to in subsection (c) does not degrade the training
23 and readiness of such units and personnel, the following
24 requirements shall apply in determining the activities
25 supplementing State and local efforts to keep schools safe

1 from violence that units and personnel of the National
2 Guard of a State may perform:

3 “(i) The performance of the activities may not
4 adversely affect the quality of that training or other-
5 wise interfere with the ability of a member or unit
6 of the National Guard to perform the military func-
7 tions of the member or unit.

8 “(ii) National Guard personnel will not degrade
9 their military skills as a result of performing the ac-
10 tivities.

11 “(iii) The performance of the activities will not
12 result in a significant increase in the cost of train-
13 ing.

14 “(iv) In the case of activities supplementing
15 State and local efforts to keep schools safe from vio-
16 lence that are performed by a unit organized to
17 serve as a unit, the activities will support valid unit
18 training requirements.

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

1 “(A) the plan specifically recognizes the organi-
2 zation as being eligible to receive the services or as-
3 sistance;

4 “(B) in the case of services, the performance of
5 the services meets the requirements of paragraphs
6 (1) and (2) of subsection (a) of section 508 of this
7 title; and

8 “(C) the services or assistance is authorized
9 under subsection (b) or (c) of such section or in the
10 plan.

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

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

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

21 “(3) certify that participation by National
22 Guard personnel in those operations is service in ad-
23 dition to training required under section 502 of this
24 title;

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

5 “(5) include a certification by the Attorney
6 General of the State (or, in the case of a State with
7 no position of Attorney General, a civilian official of
8 the State equivalent to a State attorney general)
9 that the use of the National Guard of the State for
10 the activities proposed under the plan is authorized
11 by, and is consistent with, State law; and

12 “(6) certify that the Governor of the State or
13 a civilian law enforcement official of the State des-
14 ignated by the Governor has determined that any ac-
15 tivities included in the plan that are carried out in
16 conjunction with Federal law enforcement agencies
17 serve a State law enforcement purpose.

18 “(d) EXAMINATION OF PLAN.—(1) Before funds are
19 provided to the Governor of a State under this section and
20 before members of the National Guard of that State are
21 ordered to full-time National Guard duty as authorized in
22 subsection (b), the Secretary of Defense shall examine the
23 adequacy of the plan submitted by the Governor under
24 subsection (c).

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

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

5 “(A) the Governor of a State submits a plan
6 under subsection (c) that is substantially the same
7 as a plan submitted for that State for a previous fis-
8 cal year; and

9 “(B) pursuant to the plan submitted for a pre-
10 vious fiscal year, funds were provided to the State
11 in accordance with subsection (a) or personnel of the
12 National Guard of the State were ordered to per-
13 form full-time National Guard duty in accordance
14 with subsection (b).

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

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

23 “(B) on duty under State authority to activities
24 supplementing State and local efforts to keep schools
25 safe from violence pursuant to an order to duty with

1 State pay and allowances being reimbursed with
2 funds provided under subsection (a)(2)(A).

3 “(2) The Secretary of Defense may increase the end
4 strength authorized under paragraph (1) by not more than
5 20 percent for any fiscal year if the Secretary determines
6 that such an increase is necessary in the national security
7 interests of the United States.

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

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

16 “(2) A description of the activities to supple-
17 ment State and local efforts to keep schools safe
18 from violence that were conducted under plans re-
19 ferred to in subsection (c) with funds provided under
20 this section.

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

23 “(4) A description of the effect on military
24 training and readiness of using units and personnel
25 of the National Guard to perform activities under

1 the plans to supplement State and local efforts to
2 keep schools safe from violence.

3 “(g) STATUTORY CONSTRUCTION.—Nothing in this
4 section shall be construed as a limitation on the authority
5 of any unit of the National Guard of a State, when such
6 unit is not in Federal service, to perform law enforcement
7 functions authorized to be performed by the National
8 Guard by the laws of the State concerned.

9 “(h) DEFINITIONS.—In this section:

10 “(1) The term ‘Governor of a State’ means, in
11 the case of the District of Columbia, the Com-
12 manding General of the National Guard of the Dis-
13 trict of Columbia.

14 “(2) The term ‘State’ means each of the several
15 States, the District of Columbia, the Commonwealth
16 of Puerto Rico, or a territory or possession of the
17 United States.

18 “(3) The term ‘supplementing State and local
19 efforts to keep schools safe from violence’ means
20 supporting State and local efforts to keep schools
21 and students safe from violence pursuant to a plan
22 described under subsection (a).”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 1 of such title is amended by

1 inserting after the item relating to section 112 the fol-

2 lowing new item:

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

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