

114TH CONGRESS
2D SESSION

S. 3476

To waive recoupment by the United States of certain bonuses and similar benefits erroneously received by members of the Army National Guard, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2016

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. LEAHY, Mr. MARKEY, Mr. MANCHIN, Mr. TESTER, Mr. COONS, Mr. MENENDEZ, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. WYDEN, Mr. UDALL, Mr. FRANKEN, Mr. MURPHY, Ms. KLOBUCHAR, Mrs. MURRAY, Mr. WARNER, Mr. BOOKER, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To waive recoupment by the United States of certain bonuses and similar benefits erroneously received by members of the Army National Guard, 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 “National Guard Bonus
5 Repayment and Financial Relief Act”.

1 **SEC. 2. WAIVER OF RECOUPMENT OF CERTAIN BONUSES**
2 **AND SIMILAR BENEFITS ERRONEOUSLY RE-**
3 **CEIVED BY MEMBERS OF THE ARMY NA-**
4 **TIONAL GUARD.**

5 (a) REVIEW OF BONUSES AND BENEFITS TO DETER-
6 MINE ERRONEOUS RECEIPT.—The Secretary of the Army
7 shall review all bonuses, incentive pays, or similar benefits
8 received by members of the Army National Guard during
9 the period beginning on January 1, 2004, and ending on
10 December 31, 2010, in order to determine if such bonuses,
11 pays, or similar benefits were issued erroneously.

12 (b) ACTION UPON DETERMINATION OF ERRONEOUS
13 RECEIPT.—Except as provided in subsection (c), if the
14 Secretary determines that any bonus, incentive pay, or
15 similar benefit described in subsection (a) was issued erro-
16 neously, the Secretary shall—

17 (1) in the case of a bonus, pay, or benefit for
18 which repayment would otherwise be authorized pur-
19 suant to section 303a(e) or 373 of title 37, United
20 States Code, as applicable, waive repayment of the
21 bonus, pay, or benefit in the event the member con-
22 cerned fully satisfies any period of service otherwise
23 agreed to or imposed upon the member in connection
24 with receipt of the bonus, pay, or benefit; and

25 (2) in the case of a bonus, pay, or benefit re-
26 paid by a member before the date of the enactment

1 of this Act, repay the member the amount so repaid
2 by the member, plus any interest paid by the mem-
3 ber in connection with the member's repayment, in
4 the event the member fully satisfies any period of
5 service otherwise agreed to or imposed upon the
6 member in connection with receipt of the bonus, pay,
7 or benefit.

8 (c) EXCEPTIONS.—Notwithstanding subsection (b),
9 the Secretary may require a member of the Army National
10 Guard to repay any bonus, incentive pay, or similar benefit
11 described in subsection (a) that was issued erroneously if
12 the Secretary determines either of the following:

13 (1) That the member knowingly received the
14 bonus, pay, or benefit through fraud or misrepresen-
15 tation in which the member participated.

16 (2) That repayment is otherwise consistent with
17 the provisions of section 303a(e) or 373 of title 37,
18 United States Code, as applicable.

19 (d) ADDITIONAL ACTIONS.—

20 (1) IN GENERAL.—For any member of the
21 Army National Guard granted relief under sub-
22 section (b), the Secretary shall—

23 (A) notify all consumer credit reporting
24 agencies that any debt subject to the relief was
25 never valid; and

1 (B) provide assistance, to the extent prac-
2 ticable, to the member if the member has faced
3 or is facing financial hardship as a result of the
4 recoupment actions taken against the member
5 in connection with receipt of the bonus or simi-
6 lar benefit concerned.

7 (2) EFFECT OF CONSUMER CREDIT NOTIFICA-
8 TION.—A consumer reporting agency notified of the
9 invalidity of a debt pursuant to paragraph (1)(A)
10 may not, after the date of the notice, make any con-
11 sumer report containing any information relating to
12 the debt.

13 (e) SOURCE OF FUNDS.—Amount for repayments
14 pursuant to subsection (b)(2) shall be derived from appli-
15 cable current appropriations as if such repayments were
16 payments for claims in connection with the correction of
17 military records as provided in section 1552(c) of title 10,
18 United States Code.

19 (f) REPORT.—Not later than 60 days after the com-
20 pletion of the review required by subsection (a), the Sec-
21 retary shall submit to the Committees on Armed Services
22 of the Senate and the House of Representatives a report
23 setting forth the following:

1 (1) The number of bonuses, incentive pays, or
2 similar benefits identified through the review as
3 being provided erroneously.

4 (2) The number of members of the Army Na-
5 tional Guard against whom the Department of De-
6 fense proceeded with recoupment for erroneous pro-
7 vision, set forth by basis for recoupment and amount
8 recouped.

9 (3) The number of members of the Army Na-
10 tional Guard for whom the Department waived
11 recoupment for erroneous provision, set forth by
12 basis of waiver, amount waived, and amount repaid
13 to members whose waiver occurred after recoupment
14 by the Department.

15 (4) The number of members of the Army Na-
16 tional Guard subject to an exception under sub-
17 section (c).

18 (g) DEFINITIONS.—In this section:

19 (1) The term “bonus, incentive pay, or similar
20 benefit”—

21 (A) has the meaning given that term in
22 section 373(d)(1) of title 37, United States
23 Code; and

24 (B) includes a bonus or similar benefit (as
25 that term is defined in section 303a(e) of such

1 title) for which repayment would be authorized
2 pursuant to such section 303a(e).

3 (2) The terms “consumer credit reporting agen-
4 cy” and “consumer report” have the meaning given
5 such terms in section 603 of the Fair Credit Report-
6 ing Act (15 U.S.C. 1681a).

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