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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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Save Our Students Act".

SEC. 2. NATIONAL GUARD SUPPORT FOR STATE AND LOCAL EFFORTS TO KEEP SCHOOLS SAFE FROM VIOLENCE.

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

"§ 112a. Support for State and local efforts to keep schools safe from violence

''(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a plan for the National Guard to supplement State and local efforts to keep schools safe from violence that satisfies the requirements of subsection (c). Such funds shall be used for the following:

''(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of supplementing State and local efforts to keep schools safe from violence.

''(2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of supplementing State and local efforts to keep schools safe from violence.

"(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of supplementing State and local efforts to keep schools safe from violence. However, the use of such funds for the procurement of equipment may not exceed $5,000 per item, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.

"(b) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the plan referred to in subsection (c) with respect to the State concerned, be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of supplementing State and local efforts to keep schools safe from violence.

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the

same as those to which the member is entitled while performing duty for the purpose of supplementing State and local efforts to keep schools safe from violence. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

"(B) To ensure that the use of units and personnel of the National Guard of a State pursuant to a plan referred to in subsection (c) does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the activities supplementing State and local efforts to keep schools safe from violence that units and personnel of the National Guard of a State may perform:

"(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

"(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

"(iii) The performance of the activities will not result in a significant increase in the cost of training.

"(iv) In the case of activities supplementing State and local efforts to keep schools safe from violence that are performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

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

"(A) the plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the plan.

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

"(1) specify how personnel of the National Guard of that State are to be used in supplementing State and local efforts to keep schools safe from violence;

"(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service;

"(3) certify that participation by National Guard personnel in those operations is service in addition to training required under section 502 of this title;

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

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

"(6) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any ac-

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

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

''(2) Except as provided in paragraph (3), the Secretary of Defense shall carry out paragraph (1) in consultation with the Secretary of Education.

''(3) Paragraph (2) shall not apply if—

''(A) the Governor of a State submits a plan under subsection (c) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

''(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).

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

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

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

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

"(f) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress on an annual basis a report regarding the assistance provided and activities carried out under this section during the preceding fiscal year. Each report shall include the following:

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

"(2) A description of the activities to supplement State and local efforts to keep schools safe from violence that were conducted under plans referred to in subsection (c) with funds provided under this section.

"(3) An accounting of the amount of funds provided to each State.

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

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

"(h) DEFINITIONS.—In this section:

"(1) The term 'Governor of a State' means, in the case of the District of Columbia, the Com-

manding General of the National Guard of the District of Columbia.

"(2) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 112 the following new item:

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

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