

108TH CONGRESS  
2D SESSION

# S. 2274

To expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, 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 “21st Century Citizen  
5       Soldier Benefits Act”.

1 **SEC. 2. ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR**  
2 **SERVICE.**

3 (a) AGE AND SERVICE REQUIREMENTS.—Subsection  
4 (a) of section 12731 of title 10, United States Code, is  
5 amended to read as follows:

6 “(a)(1) Except as provided in subsection (c), a person  
7 is entitled, upon application, to retired pay computed  
8 under section 12739 of this title, if the person—

9 “(A) satisfies one of the combinations of re-  
10 quirements for minimum age and minimum number  
11 of years of service (computed under section 12732 of  
12 this title) that are specified in the table in para-  
13 graph (2);

14 “(B) performed the last six years of qualifying  
15 service while a member of any category named in  
16 section 12732(a)(1) of this title, but not while a  
17 member of a regular component, the Fleet Reserve,  
18 or the Fleet Marine Corps Reserve, except that in  
19 the case of a person who completed 20 years of serv-  
20 ice computed under section 12732 of this title before  
21 October 5, 1994, the number of years of qualifying  
22 service under this subparagraph shall be eight; and

23 “(C) is not entitled, under any other provision  
24 of law, to retired pay from an armed force or re-  
25 tainer pay as a member of the Fleet Reserve or the  
26 Fleet Marine Corps Reserve.

1       “(2) The combinations of minimum age and min-  
 2       imum years of service required of a person under subpara-  
 3       graph (A) of paragraph (1) for entitlement to retired pay  
 4       as provided in such paragraph are as follows:

<b>“Age, in years, is at least:</b>	<b>The minimum years of service required for that age is:</b>
55 .....	30
56 .....	28
57 .....	26
58 .....	24
59 .....	22
60 .....	20.”.

5       (b) 20-YEAR LETTER.—Subsection (d) of such sec-  
 6       tion is amended by striking “the years of service required  
 7       for eligibility for retired pay under this chapter” in the  
 8       first sentence and inserting “20 years of service computed  
 9       under section 12732 of this title.”.

10       (c) EFFECTIVE DATE.—This section and the amend-  
 11       ments made by this subsection (a) shall take effect on the  
 12       first day of the first month beginning on or after the date  
 13       of the enactment of this Act and shall apply with respect  
 14       to retired pay payable for that month and subsequent  
 15       months.

16       **SEC. 3. CERTAIN BURIAL BENEFITS FOR RESERVES WHO**  
 17                       **SERVED IN CAMPAIGN OR EXPEDITION FOR**  
 18                       **WHICH A CAMPAIGN MEDAL WAS AUTHOR-**  
 19                       **IZED.**

20       (a) ELIGIBILITY FOR HEADSTONE OR GRAVE MARK-  
 21       ER.—Section 2306(a) of title 38, United States Code, is

1 amended by adding at the end the following new para-  
2 graph:

3           “(6) Any individual who, while a member of a  
4       reserve component, served on active duty in a cam-  
5       paign or expedition for which a campaign medal was  
6       authorized and who was discharged or released from  
7       service in the Armed Forces under other than dis-  
8       honorably conditions.”.

9       (b) ELIGIBILITY FOR INTERMENT IN NATIONAL  
10 CEMETERIES.—Section 2402 of such title is amended by  
11 adding at the end the following new paragraph:

12           “(9) Any individual who, while a member of a  
13       reserve component, served on active duty in a cam-  
14       paign or expedition for which a campaign medal was  
15       authorized and who was discharged or released from  
16       service in the Armed Forces under other than dis-  
17       honorably conditions.”.

18       (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply with respect to deaths occurring  
20 on or after the date of the enactment of this Act.

1 **SEC. 4. EDUCATIONAL ASSISTANCE UNDER MONTGOMERY**  
 2 **GI BILL FOR MEMBERS OF THE SELECTED**  
 3 **RESERVE WHO AGGREGATE MORE THAN 2**  
 4 **YEARS OF ACTIVE DUTY SERVICE DURING**  
 5 **ANY 5-YEAR PERIOD.**

6 (a) ENTITLEMENT.—Section 3012(a)(1) of title 38,  
 7 United States Code, is amended—

8 (1) in subparagraph (B), by striking “or” at  
 9 the end;

10 (2) in subparagraph (C), by adding “or” at the  
 11 end; and

12 (3) by inserting after subparagraph (C) the fol-  
 13 lowing new subparagraph (D):

14 “(D) during any five-year period beginning  
 15 on or after September 11, 2001, while in the  
 16 Selected Reserve, serves on active duty in the  
 17 Armed Forces for one or more periods aggre-  
 18 gating not less than two years of service on ac-  
 19 tive duty during such period;”.

20 (b) CONTRIBUTIONS FOR BASIC ASSISTANCE.—Sec-  
 21 tion 3012(c) of such title is amended—

22 (1) by inserting “(1)” after “(c)”;

23 (2) by designating the second sentence as para-  
 24 graph (3) and indenting such paragraph, as so des-  
 25 ignated, two ems from the left margin; and

1           (3) by inserting after paragraph (1), as so des-  
2           ignated, the following new paragraph:

3           “(2)(A) Except as provided in subparagraph (B), in  
4           the case of an individual described in subsection (a)(1)(D)  
5           who does not make an election under subsection (d)(4),  
6           the basic pay of such individual shall be reduced by \$100  
7           for each of any of the first 12 months that such individual  
8           is entitled to such pay commencing with the first month  
9           after the date on which such individual becomes entitled  
10          to educational assistance under this chapter by reason of  
11          subsection (a)(1)(D).

12          “(B) An individual described in subparagraph (A)  
13          may pay the Secretary \$1,200 in a lump sum payment  
14          in lieu of the reduction in basic pay otherwise required  
15          by subparagraph (A). Such payment shall be made before  
16          the commencement of the receipt by the individual of  
17          amounts of basic educational assistance under this chap-  
18          ter.

19          “(C) If the total amount of basic pay of an individual  
20          reduced under subparagraph (A) is less than \$1,200 as  
21          of the completion of all service of such individual on active  
22          duty, the individual shall pay the Secretary in a lump sum  
23          payment an amount equal to the difference between  
24          \$1,200 and the amount so reduced. The payment shall be  
25          made before the commencement of the receipt by such in-

1 individual of amounts of basic educational assistance under  
2 this chapter.

3 “(D) The Secretary shall deposit any amounts re-  
4 ceived as payments under subparagraph (B) or (C) into  
5 the Treasury as miscellaneous receipts.”.

6 (c) ELECTION NOT TO RECEIVE ASSISTANCE.—Sec-  
7 tion 3012(d) of such title is amended by adding at the  
8 end the following new paragraph:

9 “(4) An individual described in subsection (a)(1)(D)  
10 may make an election not to receive educational assistance  
11 under this chapter. Any such election shall be made not  
12 later than 30 days after the date on which the individual  
13 otherwise becomes entitled to such assistance under sub-  
14 section (a)(1)(D). Any individual who makes such an elec-  
15 tion is not entitled to educational assistance under this  
16 chapter.”.

17 (d) CONTRIBUTIONS FOR ADDITIONAL ASSIST-  
18 ANCE.—Section 3012(f) of such title is amended—

19 (1) in paragraph (1), by inserting “or (d)(4)”  
20 after “subsection (d)(1)”; and

21 (2) in the second sentence, by inserting “, or  
22 any payments by such individual,” after “pay of  
23 such individual”.

1 (e) DURATION OF ASSISTANCE.—Section 3013(b) of  
 2 such title is amended by striking “is entitled to” and all  
 3 that follows and inserting the following: “is entitled to—

4 “(1) one month of educational assistance bene-  
 5 fits under this chapter—

6 “(A) in the case of an individual described  
 7 in section 3012(a)(1)(A) of this title, for each  
 8 month of continuous active duty served by such  
 9 individual after June 30, 1985, as part of the  
 10 obligated period of active duty on which such  
 11 entitlement is based;

12 “(B) in the case of an individual described  
 13 in section 3012(a)(1)(B) of this title, for each  
 14 month of continuous active duty served by such  
 15 individual after June 30, 1985; or

16 “(C) in the case of an individual described  
 17 in section 3012(a)(1)(D) of this title, for each  
 18 month of active duty served by such individual  
 19 after September 11, 2001, as part of the aggre-  
 20 gate period of active duty on which such entitle-  
 21 ment is based; and

22 “(2) one month of educational assistance bene-  
 23 fits under this chapter for each four months served  
 24 by such individual in the Selected Reserve after the  
 25 applicable date specified in paragraph (1) (other



1       than any month in which the individual served on  
2       active duty).”.

3       (f) AMOUNT OF ASSISTANCE.—Section 3015 of such  
4 title is amended—

5           (1) in subsections (a)(1)(D) and (b)(1)(D), by  
6       striking “subsection (h)” and inserting “subsection  
7       (i)”;

8           (2) by redesignating subsection (h) as sub-  
9       section (i); and

10          (3) by inserting after subsection (g) the fol-  
11       lowing new subsection (h):

12       “(h) In the case of an individual entitled to an edu-  
13       cational assistance allowance under section 3012(a)(1)(D)  
14       of this title, the amount of the basic educational assistance  
15       allowance payable under this chapter is the amount deter-  
16       mined under subsection (b).”.

17       (g) DEATH BENEFIT.—Section 3017(b)(1) of such  
18 title is amended—

19           (1) in subparagraph (C), by striking “and” at  
20       the end;

21           (2) in subparagraph (D), by striking “, less”  
22       and inserting “; and”; and

23           (3) by adding at the end the following new sub-  
24       paragraph:

1                   “(E) the amount of any payments made by  
2                   the individual under section 3012(c)(2) of this  
3                   title, less”.

4           (h) ENTITLEMENT DATE FOR CERTAIN MEMBERS.—  
5 In the case of any member or former member of the Se-  
6 lected Reserve who, under section 3012(a)(1)(D) of title  
7 38, United States Code (as amended by subsection (a)),  
8 is entitled to educational assistance under chapter 30 of  
9 title 38, United States Code, as of the date of the enact-  
10 ment of this Act by reason of active duty served by such  
11 member during the period beginning on September 11,  
12 2001, and ending on the date of the enactment of this  
13 Act, the date on which such individual becomes entitled  
14 to such educational assistance by reason of that section  
15 shall be deemed to be the date of the enactment of this  
16 Act.

17           (i) OUTREACH.—(1) The Secretaries concerned shall  
18 take actions to inform members of the Selected Reserve  
19 who are or may become entitled to basic educational as-  
20 sistance benefits under chapter 30 of title 38, United  
21 States Code, as a result of section 3012(a)(1)(D) of such  
22 title (as amended by subsection (a) of this section) of the  
23 minimum service requirements for entitlement to such  
24 benefits under that chapter and of the scope and nature  
25 of such benefits.

1 (2) In this subsection:

2 (A) The term “Secretary concerned” has the  
3 meaning given such term in section 101(25) of title  
4 38, United States Code.

5 (B) The term “Selected Reserve” has the  
6 meaning given such term in section 3002(4) of title  
7 38, United States Code.

8 **SEC. 5. MODIFICATION OF MAXIMUM RATE OF INTEREST**  
9 **PAYABLE BY SERVICEMEMBERS ON OBLIGA-**  
10 **TIONS INCURRED BEFORE MILITARY SERV-**  
11 **ICE.**

12 (a) MODIFICATION.—Section 207 of the  
13 Servicemembers Civil Relief Act (50 U.S.C. App. 527) is  
14 amended—

15 (1) in subsection (a), by striking “6 percent”  
16 each place it appears in the text of paragraphs (1)  
17 and (2) and inserting “the interest rate limitation  
18 percentage”;

19 (2) in subsection (c), by striking “6 percent”  
20 and inserting “the interest rate limitation percent-  
21 age”; and

22 (3) by striking subsection (d) and inserting the  
23 following new subsection (d):

24 “(d) DEFINITIONS.—In this section:

1           “(1) INTEREST.—The term ‘interest’ includes  
 2           service charges, renewal charges, fees, or any other  
 3           charges (except bona fide insurance) with respect to  
 4           an obligation or liability.

5           “(2) INTEREST RATE LIMITATION PERCENT-  
 6           AGE.—The term ‘interest rate limitation percentage’  
 7           means the lesser of—

8                   “(A) 6 percent; or

9                   “(B) the prime lending rate, as identified  
 10           by the Administration and published in the  
 11           Federal Register on a quarterly basis, plus 1  
 12           percent.”.

13           (b) EFFECT OF ADJUSTMENT OF INTEREST RATE  
 14           LIMITATION PERCENTAGE DURING MILITARY SERVICE.—  
 15           Subsection (a) of such section is further amended by add-  
 16           ing at the end the following new paragraph:

17                   “(4) EFFECT OF ADJUSTMENT OF INTEREST  
 18           RATE LIMITATION PERCENTAGE DURING SERVICE.—  
 19           If during the military service of a servicemember the  
 20           interest rate limitation percentage is adjusted as a  
 21           result of a quarterly identification of the prime lend-  
 22           ing rate by the Administration, the interest rate lim-  
 23           itation under this subsection on obligations and li-  
 24           abilities incurred before such service shall be so ad-  
 25           justed.”.

1 (c) CONFORMING AMENDMENTS.—Subsection (a) of  
2 such section is further amended—

3 (1) in the paragraph caption of paragraph (1),  
4 by striking “LIMITATION TO 6 PERCENT” and insert-  
5 ing “LIMITATION”; and

6 (2) in the paragraph caption of paragraph (2),  
7 by striking “FORGIVENESS OF INTEREST IN EXCESS  
8 OF 6 PERCENT” and inserting “FORGIVENESS OF IN-  
9 TEREST IN EXCESS OF INTEREST RATE LIMITATION  
10 PERCENTAGE”.

11 **SEC. 6. NONREDUCTION IN PAY WHILE FEDERAL EM-**  
12 **PLOYEE IS PERFORMING ACTIVE SERVICE IN**  
13 **THE UNIFORMED SERVICES.**

14 (a) IN GENERAL.—Subchapter IV of chapter 55 of  
15 title 5, United States Code, is amended by adding at the  
16 end the following:

17 **“§ 5538. Nonreduction in pay while serving in the**  
18 **uniformed services**

19 “(a) An employee who is absent from a position of  
20 employment with the Federal Government in order to per-  
21 form service in the uniformed services shall be entitled to  
22 receive, for each pay period described in subsection (b),  
23 an amount equal to the amount by which—

24 “(1) the amount of basic pay which would oth-  
25 erwise have been payable to such employee for such

1 pay period if such employee's civilian employment  
2 with the Government had not been interrupted by  
3 that service, exceeds (if at all)

4 “(2) the amount of pay and allowances which  
5 (as determined under subsection (d))—

6 “(A) is payable to such employee for that  
7 service; and

8 “(B) is allocable to such pay period.

9 “(b)(1) Amounts under this section shall be payable  
10 with respect to each pay period (which would otherwise  
11 apply if the employee's civilian employment had not been  
12 interrupted)—

13 “(A) during which such employee is entitled to  
14 reemployment rights under chapter 43 of title 38  
15 with respect to the position from which such em-  
16 ployee is absent (as referred to in subsection (a));  
17 and

18 “(B) for which such employee does not other-  
19 wise receive basic pay (including by taking any an-  
20 nual, military, or other paid leave) to which such  
21 employee is entitled by virtue of such employee's ci-  
22 vilian employment with the Government.

23 “(2) For purposes of this section, the period during  
24 which an employee is entitled to reemployment rights  
25 under chapter 43 of title 38—

1           “(A) shall be determined disregarding the provi-  
2           sions of section 4312(d) of title 38; and

3           “(B) shall include any period of time specified  
4           in section 4312(e) of title 38 within which an em-  
5           ployee may report or apply for employment or reem-  
6           ployment following completion of service in the uni-  
7           formed services.

8           “(c) Any amount payable under this section to an em-  
9           ployee shall be paid—

10           “(1) by such employee’s employing agency;

11           “(2) from the appropriation or fund which  
12           would be used to pay the employee if such employee  
13           were in a pay status; and

14           “(3) to the extent practicable, at the same time  
15           and in the same manner as would basic pay if such  
16           employee’s civilian employment had not been inter-  
17           rupted.

18           “(d) The Office of Personnel Management shall, in  
19           consultation with Secretary of Defense, prescribe any reg-  
20           ulations necessary to carry out the preceding provisions  
21           of this section.

22           “(e)(1) The head of each agency referred to in section  
23           2302(a)(2)(C)(ii) shall, in consultation with the Office,  
24           prescribe procedures to ensure that the rights under this  
25           section apply to the employees of such agency.

1       “(2) The Administrator of the Federal Aviation Ad-  
2 ministration shall, in consultation with the Office, pre-  
3 scribe procedures to ensure that the rights under this sec-  
4 tion apply to the employees of that agency.

5       “(f) For purposes of this section—

6           “(1) the terms ‘employee’, ‘Federal Govern-  
7 ment’, and ‘uniformed services’ have the same re-  
8 spective meanings as given in section 4303 of title  
9 38;

10          “(2) the term ‘service in the uniformed services’  
11 has the meaning given that term in section 4303 of  
12 title 38 and includes duty performed by a member  
13 of the National Guard under section 502(f) of title  
14 32 at the direction of the Secretary of the Army or  
15 Secretary of the Air Force;

16          “(3) the term ‘employing agency’, as used with  
17 respect to an employee entitled to any payments  
18 under this section, means the agency or other entity  
19 of the Government (including an agency referred to  
20 in section 2302(a)(2)(C)(ii)) with respect to which  
21 such employee has reemployment rights under chap-  
22 ter 43 of title 38; and

23          “(4) the term ‘basic pay’ includes any amount  
24 payable under section 5304.”.



1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 for chapter 55 of title 5, United States Code, is amended  
 3 by inserting after the item relating to section 5537 the  
 4 following:

“5538. Nonreduction in pay while serving in the uniformed services or National  
 Guard.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply with respect to pay periods (as de-  
 7 scribed in section 5538(b) of title 5, United States Code,  
 8 as added by this section) beginning on or after September  
 9 11, 2001.

10 **SEC. 7. READY RESERVE-NATIONAL GUARD EMPLOYEE**  
 11 **CREDIT ADDED TO GENERAL BUSINESS**  
 12 **CREDIT.**

13 (a) READY RESERVE-NATIONAL GUARD CREDIT.—  
 14 Subpart D of part IV of subchapter A of chapter 1 of  
 15 the Internal Revenue Code of 1986 (relating to business-  
 16 related credits) is amended by adding at the end the fol-  
 17 lowing:

18 **“SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE**  
 19 **CREDIT.**

20 “(a) GENERAL RULE.—For purposes of section 38,  
 21 the Ready Reserve-National Guard employee credit deter-  
 22 mined under this section for any taxable year is an amount  
 23 equal to 50 percent of the actual compensation amount  
 24 for such taxable year.

1       “(b) DEFINITION OF ACTUAL COMPENSATION  
 2 AMOUNT.—For purposes of this section, the term ‘actual  
 3 compensation amount’ means the amount of compensation  
 4 paid or incurred by an employer with respect to a Ready  
 5 Reserve-National Guard employee on any day during a  
 6 taxable year when the employee was absent from employ-  
 7 ment for the purpose of performing qualified active duty.

8       “(c) LIMITATIONS.—

9               “(1) MAXIMUM PERIOD FOR CREDIT PER EM-  
 10 PLOYEE.—The maximum period with respect to  
 11 which the credit may be allowed with respect to any  
 12 Ready Reserve-National Guard employee shall not  
 13 exceed the 12-month period beginning on the first  
 14 day such credit is so allowed with respect to such  
 15 employee.

16              “(2) DAYS OTHER THAN WORK DAYS.—No  
 17 credit shall be allowed with respect to a Ready Re-  
 18 serve-National Guard employee who performs quali-  
 19 fied active duty on any day on which the employee  
 20 was not scheduled to work (for reason other than to  
 21 participate in qualified active duty).

22       “(d) DEFINITIONS.—For purposes of this section—

23              “(1) QUALIFIED ACTIVE DUTY.—The term  
 24 ‘qualified active duty’ means—

1           “(A) active duty, other than the training  
 2           duty specified in section 10147 of title 10,  
 3           United States Code (relating to training re-  
 4           quirements for the Ready Reserve), or section  
 5           502(a) of title 32, United States Code (relating  
 6           to required drills and field exercises for the Na-  
 7           tional Guard), in connection with which an em-  
 8           ployee is entitled to reemployment rights and  
 9           other benefits or to a leave of absence from em-  
 10          ployment under chapter 43 of title 38, United  
 11          States Code, and

12           “(B) hospitalization incident to such duty.

13           “(2) COMPENSATION.—The term ‘compensa-  
 14          tion’ means any remuneration for employment,  
 15          whether in cash or in kind, which is paid or incurred  
 16          by a taxpayer and which is deductible from the tax-  
 17          payer’s gross income under section 162(a)(1).

18           “(3) READY RESERVE-NATIONAL GUARD EM-  
 19          PLOYEE.—The term ‘Ready Reserve-National Guard  
 20          employee’ means an employee who is a member of  
 21          the Ready Reserve or of the National Guard.

22           “(4) NATIONAL GUARD.—The term ‘National  
 23          Guard’ has the meaning given such term by section  
 24          101(c)(1) of title 10, United States Code.

1           “(5) READY RESERVE.—The term ‘Ready Re-  
2       serve’ has the meaning given such term by section  
3       10142 of title 10, United States Code.”.

4       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
5 CREDIT.—Subsection (b) of section 38 of such Code (re-  
6 lating to general business credit) is amended by striking  
7 “plus” at the end of paragraph (14), by striking the period  
8 at the end of paragraph (15) and inserting “, plus”, and  
9 by adding at the end the following:

10           “(16) the Ready Reserve-National Guard em-  
11       ployee credit determined under section 45G(a).”.

12       (c) CONFORMING AMENDMENT.—The table of sec-  
13 tions for subpart D of part IV of subchapter A of chapter  
14 1 of the Internal Revenue Code of 1986 is amended by  
15 inserting after the item relating to section 45F the fol-  
16 lowing:

          “Sec. 45G. Ready Reserve-National Guard employee credit.”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 the date of the enactment of this Act.

20 **SEC. 8. LEAVE OF ABSENCE FROM EDUCATIONAL INSTITU-**  
21 **TIONS FOR MILITARY SERVICE.**

22       (a) OBLIGATION AS PART OF PROGRAM PARTICIPA-  
23 TION REQUIREMENTS.—Section 487(a)(22) of the Higher  
24 Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amend-  
25 ed by inserting “and with the policy on leave of absence

1 for active duty military service established pursuant to  
2 section 484C” after “section 484B”.

3 (b) LEAVE OF ABSENCE FOR MILITARY SERVICE.—  
4 Part G of title IV of the Higher Education Act of 1965  
5 is amended by inserting after section 484B (20 U.S.C.  
6 1091b) the following new section:

7 **“SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.**

8 “(a) LEAVE OF ABSENCE REQUIRED.—Whenever a  
9 student who is a member of the National Guard or other  
10 reserve component of the Armed Forces of the United  
11 States, or a member of such Armed Forces in a retired  
12 status, is called or ordered to active duty, the institution  
13 of higher education in which the student is enrolled shall  
14 grant the student a military leave of absence from the in-  
15 stitution while such student is serving on active duty, and  
16 for one year after the conclusion of such service.

17 “(b) CONSEQUENCES OF MILITARY LEAVE OF AB-  
18 SENCE.—

19 “(1) PRESERVATION OF STATUS AND AC-  
20 COUNTS.—A student on a military leave of absence  
21 from an institution of higher education shall be enti-  
22 tled, upon release from serving on active duty, to be  
23 restored to the educational status such student had  
24 attained prior to being ordered to such duty without  
25 loss of academic credits earned, scholarships or

1 grants awarded, or, subject to paragraph (2), tuition  
2 and other fees paid prior to the commencement of  
3 the active duty.

4 “(2) REFUNDS.—

5 “(A) OPTION OF REFUND OR CREDIT.—An  
6 institution of higher education shall refund tui-  
7 tion or fees paid or credit the tuition and fees  
8 to the next period of enrollment after the stu-  
9 dent returns from a military leave of absence,  
10 at the option of the student. Notwithstanding  
11 the 180-day limitation referred to in section  
12 484B(a)(2)(B), a student on a military leave of  
13 absence under this section shall not be treated  
14 as having withdrawn for purposes of section  
15 484B unless the student fails to return at the  
16 end of the military leave of absence (as deter-  
17 mined under subsection (a) of this section).

18 “(B) PROPORTIONATE REDUCTION OF RE-  
19 FUND FOR TIME COMPLETED.—If a student re-  
20 quests a refund during a period of enrollment,  
21 the percentage of the tuition and fees that shall  
22 be refunded shall be equal to 100 percent  
23 minus—

24 “(i) the percentage of the period of  
25 enrollment (for which the tuition and fees

1                   were paid) that was completed (as deter-  
 2                   mined in accordance with section 484B(d))  
 3                   as of the day the student withdrew, pro-  
 4                   vided that such date occurs on or before  
 5                   the completion of 60 percent of the period  
 6                   of enrollment; or

7                   “(ii) 100 percent, if the day the stu-  
 8                   dent withdrew occurs after the student has  
 9                   completed 60 percent of the period of en-  
 10                  rollment.

11               “(c) ACTIVE DUTY.—In this section, the term ‘active  
 12               duty’ has the meaning given such term in section  
 13               101(d)(1) of title 10, United States Code, except that such  
 14               term—

15               “(1) does not include active duty for training or  
 16               attendance at a service school; but

17               “(2) includes, in the case of members of the  
 18               National Guard, active State duty.”.

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