

116TH CONGRESS
2D SESSION

S. 3459

To amend title 5, United States Code, to deny Federal retirement benefits to Members of Congress convicted of a felony.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2020

Mr. TILLIS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to deny Federal retirement benefits to Members of Congress convicted of a felony.

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 “No Cash for Crooks
5 Act”.

6 **SEC. 2. DENIAL OF RETIREMENT BENEFITS.**

7 (a) IN GENERAL.—Subchapter II of chapter 83 of
8 title 5, United States Code, is amended by inserting after
9 section 8312 the following:

1 **“§ 8312a. Members of Congress convicted of felonies**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘conviction’ includes entering a
4 plea of guilty and a verdict;

5 “(2) the term ‘felony’ means an offense under
6 Federal, State, or Tribal law punishable by impris-
7 onment for a period of more than 1 year; and

8 “(3) the term ‘Member of Congress’—

9 “(A) means a Member of Congress, as de-
10 fined in section 2016; and

11 “(B) does not include the Vice President.

12 “(b) PROHIBITION.—A Member of Congress, or a
13 survivor or beneficiary of a Member of Congress, may not
14 be paid annuity or retired pay on the basis of the service
15 of the Member of Congress in any position as an officer
16 or employee of the Federal Government which is creditable
17 toward the annuity or retired pay, subject to the excep-
18 tions in section 8311(2) and (3) of this title, if the Mem-
19 ber of Congress is convicted of a felony for which the con-
20 duct constituting the offense was committed in whole or
21 in part—

22 “(1) on or after the date of enactment of this
23 section; and

24 “(2) while a Member of Congress.

25 “(c) FOREIGN OFFENSES.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (b), a conviction of a felony may be established if the
3 Attorney General certifies to the agency admin-
4 istering the annuity or retired pay concerned—

5 “(A) that a Member of Congress subject to
6 this chapter has been convicted by an impartial
7 court of appropriate jurisdiction within a for-
8 eign country in circumstances in which the con-
9 duct would constitute a felony under Federal,
10 State, or Tribal law had such conduct taken
11 place within the United States and that such
12 conviction is not being appealed or that final
13 action has been taken on such appeal;

14 “(B) that such conviction was obtained in
15 accordance with procedures that provided the
16 defendant due process rights comparable to
17 such rights provided by the United States Con-
18 stitution, and such conviction was based upon
19 evidence which would have been admissible in
20 the courts of the United States; and

21 “(C) that such conduct occurred after the
22 date of enactment of this section.

23 “(2) REVIEW.—Any certification made pursu-
24 ant to this subsection shall be subject to review by
25 the United States Court of Claims based upon the

1 application of the Member of Congress concerned, or
2 his or her attorney, alleging that a condition set
3 forth in subparagraph (A), (B), or (C) of paragraph
4 (1), as certified by the Attorney General, has not
5 been satisfied in his or her particular circumstances.
6 Should the court determine that any of these condi-
7 tions has not been satisfied in such case, the court
8 shall order any annuity or retirement benefit to
9 which the person concerned is entitled to be restored
10 and shall order that any payments which may have
11 been previously denied or withheld to be paid by the
12 department or agency concerned.

13 “(d) ABSENCE FROM THE UNITED STATES TO
14 AVOID PROSECUTION.—

15 “(1) IN GENERAL.—A Member of Congress, or
16 a survivor or beneficiary of a Member of Congress,
17 may not be paid annuity or retired pay on the basis
18 of the service of the Member of Congress in any po-
19 sition as an officer or employee of the Federal Gov-
20 ernment which is creditable toward the annuity or
21 retired pay, subject to the exceptions in section
22 8311(2) and (3) of this title, if the Member of Con-
23 gress—

24 “(A) is under indictment, or has out-
25 standing against him or her charges preferred

1 under the Uniform Code of Military Justice, for
2 a felony for which the conduct constituting the
3 offense was committed in whole or in part—

4 “(i) on or after the date of enactment
5 of this section; and

6 “(ii) while a Member of Congress; and

7 “(B) willfully remains outside the United
8 States, or its territories and possessions includ-
9 ing the Commonwealth of Puerto Rico, for more
10 than 1 year with knowledge of the indictment
11 or charges, as the case may be.

12 “(2) PERIOD.—The prohibition on payment of
13 annuity or retired pay under paragraph (1) applies
14 during the period—

15 “(A) beginning on the day after the end of
16 the 1-year period described in paragraph (1);
17 and

18 “(B) ending on the date on which—

19 “(i) a nolle prosequi to the entire in-
20 dictment is entered on the record or the
21 charges are dismissed by competent au-
22 thority;

23 “(ii) the individual returns and there-
24 after the indictment or charges is or are
25 dismissed; or

1 “(iii) after trial by court or court-mar-
2 tial, the accused is found not guilty of the
3 offense or offenses.

4 “(e) PARDONS.—

5 “(1) RESTORATION OF ANNUITY OR RETIRED
6 PAY.—If a Member of Congress who forfeits an an-
7 nuity under this section is pardoned by the Presi-
8 dent, the right of the Member of Congress and a
9 survivor or beneficiary of the Member of Congress to
10 receive annuity or retired pay previously denied
11 under this section is restored as of the date of the
12 pardon.

13 “(2) LIMITATION.—Payment of annuity or re-
14 tired pay which is restored under paragraph (1)
15 based on pardon by the President may not be made
16 for a period before the date of pardon.

17 “(f) SPOUSAL BENEFITS.—The spouse of a Member
18 of Congress whose annuity or retired pay is forfeited
19 under this section shall be eligible for spousal pension ben-
20 efits if the Attorney General determines that the spouse
21 fully cooperated with law enforcement authorities in the
22 conduct of a criminal investigation and subsequent pros-
23 ecution of the Member of Congress which resulted in such
24 forfeiture.”.

1 (b) NONACCRUAL OF INTEREST ON REFUNDS.—Sec-
2 tion 8316 of title 5, United States Code, is amended—

3 (1) in subsection (a), in the matter preceding
4 paragraph (1), by inserting “under section 8312a
5 or” before “because an individual”; and

6 (2) in subsection (b)—

7 (A) in paragraph (1), by striking “or” at
8 the end;

9 (B) in paragraph (2), by striking the pe-
10 riod at the end and inserting “or”; and

11 (C) by adding at the end the following:

12 “(3) if the individual is a Member of Congress
13 who is convicted of a felony, for the period after the
14 conviction.”.

15 (c) CONFORMING AMENDMENT.—The table of sec-
16 tions for chapter 83 of title 5, United States Code, is
17 amended by inserting after the item relating to section
18 8312 the following:

“8312a. Members of Congress convicted of felonies.”.

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