

October 27, 2016

The Honorable Ash Carter
Secretary
U.S. Department of Defense
The Pentagon
Washington, DC 20301

General Joseph L. Lengyel
Chief
National Guard Bureau
111 South George Mason Drive, AHS2
Arlington, VA 22204

Dear Secretary Carter and General Lengyel:

Today, we write regarding the urgent matter impacting thousands of members of the California National Guard. Years after receiving enlistment bonuses, these men and women have been asked to pay back the bonuses they improperly received through no fault of their own. Thank you for taking action to suspend these collections as soon as practicable and your pledge to streamline the process so that it works for servicemembers who acted in good faith. We urge you to make this a top priority and work with Congress to find a permanent solution to make servicemembers whole.

As reported by the *Los Angeles Times*, “nearly ten thousand soldiers, many of whom served multiple combat tours, have been ordered to repay large enlistment bonuses — and slapped with interest charges, wage garnishments and tax liens if they refuse.” The overpayments were discovered after a federal audit found paperwork errors committed by the California National Guard when awarding enlistment bonuses. Those responsible pleaded guilty and were held accountable.

Those who served in the California National Guard bear no responsibility for the mistakes and misconduct that led to these payments. It is unfair and unacceptable to hold them accountable a decade later. Basic contract law dictates that if a member of the National Guard was offered a reenlistment bonus or other benefits and incentives in exchange for agreeing to serve another enlistment and deploy to war, that member should receive the bonus money and benefits if they fulfilled the terms of their enlistment. Even if those bonuses and benefits offered by the Guard were unauthorized, the Army would be contractually liable for paying the bonuses to the Guard members because they signed reenlistment contracts and agreed to put their lives on the line under a belief that they would receive the bonuses and incentives offered to them for their service and sacrifice.

It is ultimately our responsibility to work together to find a long-term solution to this matter. However, we are pleased that the Department has suspended collections on enlistment bonuses until a permanent solution can be reached. Guard members who received these bonuses in good faith should not be required to go through a lengthy and frustrating appeals process that damages

their credit and causes undue stress on Guard members and their families. They should not be forced to file a lawsuit to enforce their rights under the reenlistment contract they signed after honorably serving and deploying to war. The *LA Times* story highlights cases in California, but servicemembers could be facing this same issue across the country. Although the full scale of this matter is still unclear, the National Guard Bureau has acknowledged that overpayments have occurred in every state during the height of the wars in Iraq and Afghanistan. Any permanent solution should also make servicemembers who acted in good faith whole if they have already repaid the Department.

Again, thank you for your action to halt the collections and streamline the process. We are ready and willing to work with you to find a permanent solution to this matter.

Sincerely,

Mark Takano
Acting Ranking Member
House Committee on Veterans' Affairs

Adam Smith
Ranking Member
House Armed Services Committee