

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

183J0480

SENATE BILL NO. 100

Introduced by: Senators Kloucek, Koetzle, Moore, and Nachtigal and Representatives Elliott, Gassman, Hanson, Hundstad, Kroger, McCoy, Miles, Sigdestad, Thompson, and Valandra

1 FOR AN ACT ENTITLED, An Act to establish a bonus for veterans of the global war on
2 terrorism and other recent conflicts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-17-2 be amended to read as follows:

5 33-17-2. As used in § 33-17-1, the term, qualifying military service, means:

- 6 (1) Active duty in the armed forces of the United States for one day or more during the
7 period from April 6, 1917, to November 11, 1918, inclusive;
- 8 (2) Active duty for one day or more during the period from July 28, 1914, to
9 November 11, 1918, inclusive, performed by a citizen of the United States in the
10 armed forces of any nation that was allied with the United States during any part of
11 the period from April 6, 1917, to November 11, 1918, inclusive;
- 12 (3) Active duty in the armed forces of the United States for one day or more during the
13 period from December 7, 1941, to December 31, 1946, inclusive;
- 14 (4) Active duty for one day or more during the period from September 1, 1939, to
15 December 31, 1946, inclusive, performed by a citizen of the United States in the



1 armed forces of any nation that was allied with the United States during any part of
2 the period from December 7, 1941, to December 31, 1946, inclusive;

3 (5) Active duty in the armed forces of the United States for one day or more during the
4 period from June 25, 1950, to May 7, 1975, inclusive;

5 (6) Active duty in the armed forces of the United States for one day or more during the
6 period from August 2, 1990, to December 31, 2003, inclusive;

7 (7) Active duty in the armed forces of the United States for one day or more in a military
8 action for which the veteran earned an armed forces expeditionary medal, southwest
9 Asia service medal, Kosovo campaign medal, global war on terrorism expeditionary
10 medal, or other United States campaign or service medal awarded for participation
11 outside the boundaries of the United States in combat operations against hostile
12 forces; or

13 (8) Active duty in the armed forces of the United States for one day or more if the
14 veteran has established the existence of a service-connected disability.

15 Service on active duty by any reserve or national guard personnel for training may not be
16 construed as service on active duty, unless the veterans' commission determines, by rules
17 promulgated pursuant to chapter 1-26, that such training involved the person in direct
18 participation in or direct support of combat operations against a hostile force.

19 Section 2. That § 33-17-16 be amended to read as follows:

20 33-17-16. ~~For the purposes of §§ 33-17-19 to 33-17-36, inclusive, terms~~ Terms used in
21 §§ 33-17-16 to 33-17-37, inclusive, and section 4 of this Act mean:

22 (1) "Armed forces," the United States Army, Air Force, Coast Guard, Marine Corps,
23 Navy, and their components, including both men and women;

24 (2) "Bonus," the benefits provided under §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive,

1 and section 4 of this Act;

2 (3) "Commission," the Veterans' Commission created by § 33-16-4;

3 (4) "Dependents of deceased veterans," or "dependents," any person standing in relation
4 to a deceased veteran of: surviving spouse, child, mother, father, foster mother or
5 father, regardless of whether or not such person was actually dependent upon said
6 deceased veteran;

7 (5) "Director," the director of veterans' affairs appointed pursuant to § 1-46-9;

8 (6) "Legal resident," a person who for a period of not less than six months immediately
9 preceding entry into the armed forces of the United States as defined by subdivision
10 (1) was a resident in good faith of the State of South Dakota;

11 (7) "Veteran," any person who has ~~received or is eligible to receive the armed forces~~
12 ~~expeditionary medal, Vietnam service medal, or southwest Asia service medal for~~
13 ~~service in the armed forces in the Vietnam area before May 16, 1975, or the Lebanon,~~
14 ~~Grenada, Libya, Panama, or Persian Gulf areas after May 31, 1983, or any person~~
15 ~~who was assigned to and rendered active service in the armed forces as defined by~~
16 ~~subdivision (1) during the periods from August 5, 1964, to April 1, 1973, inclusive,~~
17 ~~or from August 2, 1990, to March 3, 1991, inclusive~~ performed qualifying military
18 service as defined in § 33-17-2 and who is qualified for a bonus pursuant to § 33-17-
19 20.

20 Section 3. That § 33-17-20 be amended to read as follows:

21 33-17-20. A veterans bonus shall be paid to any veteran, or to the dependents of a deceased
22 veteran, if the veteran was a legal resident of the State of South Dakota for at least six months
23 immediately preceding entry into the armed forces of the United States, if the veteran is still in
24 the armed forces or was separated or discharged from the armed forces honorably or under

1 honorable conditions, and if the veteran either:

2 (1) Served for at least ninety days on active duty in the armed forces of the United States
3 and received or is eligible to receive the armed forces expeditionary medal, Vietnam
4 service medal, or southwest Asia service medal for service in the Vietnam area
5 before May 16, 1975, or the Lebanon, Grenada, Libya, Panama, or Persian Gulf area
6 during the period June 1, 1983, to December 31, 1992, inclusive; or

7 (2) Served for at least ninety days on active duty in the armed forces of the United States,
8 a portion of which shall have been during the period from August 5, 1964, to April 1,
9 1973, inclusive; or during the period from August 2, 1990, to March 3, 1991,
10 inclusive; or during the period September 11, 2001, until hostilities cease as
11 determined by the Legislature; or

12 (3) Served for at least ninety days on active duty in the armed forces of the United States
13 and received or is eligible to receive the armed forces expeditionary medal, southwest
14 Asia service medal, Kosovo campaign medal, global war on terrorism expeditionary
15 medal, or other United States campaign or service medal awarded for participation
16 outside the boundaries of the United States in combat operations against hostile
17 forces during the period January 1, 1993, until hostilities cease, as determined by the
18 Legislature.

19 The act of performing military duty in the State of South Dakota at an assigned military
20 station does not in itself constitute residency for bonus purposes. However, a veteran who does
21 not meet the South Dakota residency requirements of this section but who would otherwise
22 qualify for a bonus pursuant to this section based on service in a unit of the South Dakota
23 National Guard or a South Dakota-based unit of the armed forces reserve is eligible for the
24 bonus if the veteran is not eligible for a similar benefit from any other state.

1 Section 4. That chapter 33-17 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any bonus earned pursuant to subdivision 33-17-20(3) shall be paid in the amount of one
4 thousand dollars. Any bonus earned pursuant to subdivision 33-17-20(2) for service on or after
5 September 11, 2001, shall be paid in the amount of one hundred dollars.

6 Section 5. That § 33-17-21 be amended to read as follows:

7 33-17-21. National guard or reserve personnel who put in periods of active duty for training
8 in the federal forces ~~shall not be included among the beneficiaries of §§ 33-17-16 to 33-17-36,~~
9 ~~inclusive, are not eligible for a bonus pursuant to this chapter unless they were called for further~~
10 ~~active duty. If they were called for further active duty they shall be~~ are eligible for the bonus for
11 the time so served and for the time spent in active duty for training if that time was within ~~the~~
12 an eligible period fixed in § 33-17-20. However, the commission may promulgate rules pursuant
13 to chapter 1-26 to specify special circumstances under which service by national guard or
14 reserve personnel in a training or active duty status may qualify for the bonus if such service
15 involved participation in or direct support of military operations or activities that would qualify
16 for benefits under § 33-17-20.

17 Section 6. That § 33-17-25 be amended to read as follows:

18 33-17-25. No person is entitled to payment of a bonus who, being in the armed forces of the
19 United States within any period set forth in § 33-17-20, refused on conscientious, political, or
20 other grounds, to subject himself or herself to military discipline or who was separated from
21 such service under conditions other than honorable and has not been subsequently restored
22 officially to an honorable status. No person who is eligible to receive from another state of the
23 United States a bonus or gratuity or compensation similar to that provided by §§ 33-17-16 to
24 ~~33-17-36~~ 33-17-37, inclusive, or section 4 of this Act may receive any corresponding bonus

1 provided by §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive, or section 4 of this Act.

2 Section 7. That § 33-17-26 be amended to read as follows:

3 33-17-26. The South Dakota Legislature finds and declares the bonus provided under
4 §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive, or section 4 of this Act shall be paid as soon as
5 this state has adequate and sufficient funds to do so, and there are hereby authorized such sums
6 of money as are necessary to pay ~~said~~ the bonus, and all administrative expenses of the
7 commission in connection ~~therewith~~ the bonus, to be appropriated by subsequent sessions of this
8 Legislature or to be otherwise paid as provided by law.

9 Section 8. That § 33-17-27 be amended to read as follows:

10 33-17-27. ~~In case~~ If any bonus is payable under §§ 33-17-16 to ~~33-17-36~~ 33-17-37,
11 inclusive, or section 4 of this Act to a minor who is a veteran, or a minor widow of such veteran,
12 and who is under no legal disability other than minority, payment of ~~such~~ the bonus shall be
13 made to such person direct.

14 Section 9. That § 33-17-28 be amended to read as follows:

15 33-17-28. ~~In case~~ If any bonus is payable under §§ 33-17-16 to ~~33-17-36~~ 33-17-37,
16 inclusive, or section 4 of this Act to a mental incompetent, the bonus shall be paid to the person
17 who is constituted his or her committee, guardian, curator, or conservator, by the laws of the
18 state of residence of such incompetent, or is otherwise legally vested with the care of such
19 incompetent, ~~provided, however, if there be~~. However, if there is no such committee, guardian,
20 curator, conservator, or other person, payment shall be made to the chief officer of any hospital
21 or institution in which the incompetent is placed ~~where such~~ if the officer is authorized to accept
22 moneys for the benefit of the incompetent, ~~and provided further, if there be~~. If there is no such
23 committee, guardian, curator, or conservator, and if the incompetent is not in any such hospital
24 or institution, payment shall be made to the person determined by the commission to have

1 assumed the major responsibility for the care of the incompetent. Any payment ~~hereunder~~ under
2 this section shall be held or used solely for the benefit of the incompetent.

3 Section 10. That § 33-17-29 be amended to read as follows:

4 33-17-29. In case of the death of any person after July 1, 1969, who would, if alive, be
5 entitled to benefits under §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive, or section 4 of this Act,
6 the bonus shall be paid to ~~his~~ the person's dependents, if any; ~~if there be~~. If there are more than
7 one dependent, payment shall be made in such proportion as the commission shall determine,
8 and in the order of preference as follows: wife, or husband, as the case may be, children, mother,
9 father, foster mother, and foster father.

10 Section 11. That § 33-17-30 be amended to read as follows:

11 33-17-30. The commission shall promulgate rules pursuant to chapter 1-26 to define and
12 provide for eligibility criteria, administration and method of payment of the bonus created in
13 §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive, and section 4 of this Act. The rules may include
14 provisions by which service that qualifies for the navy expeditionary medal, the Marine Corps
15 expeditionary medal, or other United States military award for participation outside the
16 boundaries of the United States in combat operations against hostile forces may qualify for a
17 bonus under this chapter if, in the commission's judgment, such service reflects essentially
18 similar time periods, areas and types of duty as would qualify for an armed forces expeditionary
19 medal in the areas and periods qualifying for a bonus under this chapter.

20 Section 12. That § 33-17-31 be amended to read as follows:

21 33-17-31. The director shall prepare such application forms and regulations governing
22 administration of §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive, and section 4 of this Act, as the
23 commission may direct and authorize under § 33-17-30, ~~which~~. The application forms and
24 regulations shall be completed and made available to eligible veterans when funds available to

1 the commission permit, and payment of all claims approved by the commission shall be made
2 as funds are available and in the order as determined by the commission.

3 Section 13. That § 33-17-32 be amended to read as follows:

4 33-17-32. All claims for compensation under §§ 33-17-16 to ~~33-17-36~~ 33-17-37, inclusive,
5 and section 4 of this Act shall be presented to the commission on such forms as it may require
6 no later than three years after July 1, ~~1992~~ 2005. When approved for payment by the
7 commission, the director shall submit an authorized voucher to the state auditor, who shall issue
8 the warrant for the amount of the approved claim to the person found by the commission to be
9 entitled to the claim. All claims for the bonus under the foregoing provisions not presented on
10 or before the terminal date fixed in this section ~~shall be~~ are forever barred.

11 Section 14. That § 33-17-33 be amended to read as follows:

12 33-17-33. Any person who ~~shall falsely make~~ makes false application for veteran's bonus
13 under the provisions of §§ 33-17-16 to ~~33-17-36, inclusive, shall be~~ 33-17-37, inclusive, or
14 section 4 of this Act is guilty of a Class 1 misdemeanor.

15 Section 15. That § 33-17-35 be amended to read as follows:

16 33-17-35. No right of payment of the bonus under §§ 33-17-16 to ~~33-17-36, inclusive, shall~~
17 ~~be~~ 33-17-37, inclusive, or section 4 of this Act is subject to moneys or credit taxation, claims
18 of creditors, garnishment, or assignment, nor ~~shall~~ may such right of payment be deemed an
19 asset, legal or equitable, of the estate of a deceased veteran.

20 Section 16. That § 33-17-36 be amended to read as follows:

21 33-17-36. If any provisions of §§ 33-17-16 to ~~33-17-36, inclusive, 33-17-37, inclusive, or~~
22 section 4 of this Act or the application thereof to any person or circumstance or the validity or
23 effectiveness of any one or more of the sources of payment provided be invalid, such invalidity
24 or ineffectiveness ~~shall~~ does not affect the remaining provisions of §§ 33-17-16 to ~~33-17-36,~~

1 ~~inclusive 33-17-37, inclusive, or section 4 of this Act.~~

2 Section 17. That § 33-17-38 be amended to read as follows:

3 33-17-38. No veteran may receive more than one bonus pursuant to § 33-17-20 for service
4 before May 16, 1975, ~~and~~; no veteran may receive more than one bonus for service after
5 ~~May 31, 1983~~ during the period June 1, 1983, to December 31, 1992; and no veteran may
6 receive more than one bonus for service during the period January 1, 1993, until hostilities cease
7 as determined by the Legislature. However, any veteran who is eligible for a bonus pursuant to
8 § 33-17-20 for service before May 16, 1975, and for service after May 31, 1983, may receive
9 ~~two separate bonuses~~ during more than one of the three time periods may receive a separate
10 bonus for each period for which the veteran qualifies. No single bonus may exceed ~~five hundred~~
11 one thousand dollars.