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United States Senate

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April 1, 2020

The Honorable Mark Esper
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Esper:

We write today to express our concern regarding the mobilization status of National Guard units deployed in response to the COVID-19 pandemic. Soldiers and Airmen activated to support this federally designated national emergency should be placed on Title 32 502(f) orders with respect to operations or missions undertaken at the request of the President, and we are concerned that the Department of Defense and the Office of Management and Budget are not acting with urgency to put our Soldiers and Airmen into this status.

At the beginning of the crisis, many governors began deploying their National Guard members under State Active Duty status, but following President Trump's national emergency declaration and determination under the Stafford Act on March 13, 2020, states have sought and are receiving federal support. As such, we believe it is appropriate that the National Guard answering the call to provide relief during this national emergency must then be moved to federal Title 32 status, in coordination with state Governors and the Adjutants General. This action will ensure our National Guard who are "Always Ready, Always There!" receive the proper military pay and compensation, access to TRICARE healthcare, military employment protections, and a host of benefits that we all expect our brave servicemembers to receive, particularly in a time of crisis.

Absent your action to coordinate with states and put National Guard under the appropriate federal mobilization orders, for qualifying periods of time, they are deprived critical benefits and entitlements, including TRICARE. Under normal circumstances, we would understand and appreciate the Department's effort to conduct further analysis, however, as evidenced by the passage of the CARES Act just last week, these are not normal times. We must ensure the men and women serving our country receive the support and benefits they deserve, and specifically that they are medically protected during this global pandemic while putting themselves in harm's way to aid other Americans.

In addition to the pressing concerns regarding healthcare for our first responder National Guard, there are pay and benefit issues we will have to face as we emerge from this crisis. Keeping servicemembers on vastly different mobilization orders while conducting the same

critical mission will inevitably lead to benefit inequity where Soldiers and Airmen do not receive equal compensation or benefit rights despite service to our country commensurate with their federally-activated peers. This will continue to be an issue and resolution is of high priority for the Senate Committee on Veterans' Affairs.

Thank you for your continued efforts in these trying times. We know this great nation will persevere through the current crisis, and we appreciate your support in ensuring our heroic National Guard Soldiers and Airmen get the benefits and protections they need and deserve.

Sincerely,



Jerry Moran
Chairman
Senate Committee on Veterans' Affairs



Jon Tester
Ranking Member
Senate Committee on Veterans' Affairs