

COL Robert F. Norton, USA (Ret.), Deputy Director, Government Relations, MILITARY OFFICERS ASSOCIATION OF AMERICA

STATEMENT
of the
MILITARY OFFICERS ASSOCIATION OF AMERICA
LEGISLATIVE PRIORITIES
for
VETERANS' HEALTH CARE and BENEFITS
2d Session, 112th Congress
before the

SENATE and HOUSE VETERANS' AFFAIRS COMMITTEES

March 22, 2012

Presented by

COL Robert F. Norton, USA (Ret.)
Deputy Director, Government Relations

EXECUTIVE SUMMARY
Selected Recommendations

VETERANS' HEALTH CARE

Integrity, Management, Finances, and Accountability of VA-Health Systems

- Fully fund the VA health system and streamline financial accounting systems to achieve more real-time and accurate fiscal projections and advanced appropriation requirements.
- Prevent targeting of VA programs as offsets for budget shortfalls; oppose higher usage and drug co-payment fees for VA services.
- Exempt VA health care funding from automatic Sequestration cuts should Congress fail to reach agreement on national debt reduction (H.R. 3895, Rep. Jeff Miller, R-FL).
- Maintain critical infrastructure and continue capital investments, modernization efforts, and veteran-patient-centric transformation initiatives, including full interoperability of electronic data and records to better meet the evolving and emergent needs of the 21st Century military and veteran populations.
- Oppose proposals that would combine VA and the Military Health Care System/TRICARE on the premise of creating efficiencies or alleged cost-savings in order to address mounting pressures resulting from the federal deficit or as a consequence of the Patient Protection and Affordable Care Act (P.L. 111-148).
- CHAMPVA-26. Pass legislation (H.R. 115, Rep Filner, D-CA) to permit adult children of

Survivors entitled to CHAMPVA to be carried on their parent's insurance up to age 26 under specific circumstances. All other government and private sector plans mandate that such coverage must be made available.

Wounded, Ill and Injured Warrior Care & Support

- Institutionalize medical and transitional support policies, programs and procedures across the VA health care and benefits systems to ensure those most catastrophically injured, ill or disabled transfer seamlessly from military status to veteran status with no break in continuity of care and services in both the short-term and over the lifetime of the veteran.
- Enforce accountability of congressionally-mandated VA and/or joint Departments of VA and Defense (DoD) wounded warrior policies and programs and establish permanent base-line funding for policy and program execution, research, staffing, and other resource requirements, including the integrated and legacy disability evaluation systems and caregiver programs.
- Establish a single, joint VA-DoD Care Coordination program office, consolidating the Federal Recovery Coordination Program (FRCP) and the military Recovery Care Coordination Program charged with managing, coordinating, communicating, outreaching, and assisting servicemembers, veterans and their families-caregivers through recovery, rehabilitation, and reintegration.

Psychological-Cognitive Health and Suicide Prevention

- Ensure sufficient funding and access to psychological, trauma and cognitive treatment, including evidence-based mental/behavioral health, marital/family counseling services, and non-traditional and/or recreational therapies.
- Establish a joint VA-DoD strategy and joint program office for more uniform delivery and synchronization of critical care and services for reducing servicemember-veteran suicides.

Women Veterans

- Fully implement P.L. 111-163, Caregivers and Veterans Omnibus Health Services Act of 2010 that provides equitable medical care and improved support services for female veterans including newborn care.
- Reconcile discrepancies in reporting military sexual trauma / assault and ensure support for women who have been victims of such attacks.

VETERANS' BENEFITS

Claims Backlog

- Ensure the VA's claims management system is grounded in "deciding claims right the first time," not just meeting numerical quotas.
- Oversee the new case management model for claims processing and monitor other field-tested initiatives directed at improving quality and accuracy.
- Ensure that the Veterans Benefits Management System (VBMS) is provided sufficient and timely resources to develop into a comprehensive, paperless, and rules-based platform.
- Ensure that VA provides standardized training to employees, and tests all employees, including coaches and managers, on the skills, competencies, and knowledge required to do their jobs.
- Monitor employee performance standards and work-credit system, and support adequate incentives for quality and accuracy, not just production quotas.

Veteran Transition, Readjustment and Employment

- Conduct oversight hearings soon after the implementation of the Veterans Retraining Assistance Program (VRAP) program in July, 2012 to ensure that outreach, recruiting and MGIB enrollments are on track.
- Grandfather VRAP participants whose licensing, training, or associate's degree program – leading to employment – won't be completed in the compressed timeframe authorized.
- Assess the TAP redesign mandated in the VOW to Hire Heroes Act at a joint hearing with the Armed Services Committees to ensure it meets the needs of separating service men and women.
- Extend the 31 December 2012 sunset date for the employer tax incentives in the VOW Act to ensure sufficient information on the effectiveness of these incentives in hiring veterans and disabled veterans.

GI BILL PROGRAMS

Oversight, Outcomes, Transparency

- Direct the Department of Veterans Affairs to work with the Department of Education to create an online “dashboard” so that prospective GI Bill users can more easily compare costs, credit and transfer policies, outcomes and graduation rates and related consumer-friendly information about colleges in all sectors.
- Further expand the VA's on-campus VetSuccess program beyond the 80 campus, \$8.8 million program requested in the Administration's budget request for FY 2013.
- Amend the educational counseling provisions in Chapter 36, 38 U.S. Code to mandate such counseling via appropriate means, including modern technologies, and permit veterans to “opt out”. Raise the \$6 million cap in the counseling provision to meet the enormous demand of new GI Bill enrollments.
- Establish a centralized complaint reporting and resolution process for veterans using GI Bill entitlement.
- Require that all programs receiving funding under the GI Bill be “Title IV” eligible; in other words, all post-secondary academic programs should meet Dept. of Education standards for accreditation and other requirements.
- Support legislation to account for all Federal educational assistance funding under the Title IV category. Changing the so-called “90/10” rule would compel all colleges and universities to demonstrate that their product is valuable enough to attract private sector students to pay for the education offered.
- Trademark the term “GI Bill” so that the Dept. of the VA can control the use of that term for GI Bill-related websites and deter other promotional media that present themselves as quasi-governmental sources of information on the GI Bill.

Towards A 21st Century GI Bill Architecture

- Integrate all active duty and reserve duty programs in a single chapter in Title 38. Benefit eligibility should be based on two metrics: the length and type of military duty performed.
- Repeal Chapter 30, the Montgomery GI Bill – with appropriate grandfathering of remaining participants – and amend language in the preamble to Chapter 33 to indicate that the program is intended to support recruitment, reenlistment and readjustment outcomes for the Armed Forces.
- Repeal Chapter 1607, 10 USC. MGIB benefits for operational active duty service performed by National Guard and Reserve servicemembers after 11 September 2001 were superseded by

the P911 GI Bill.

- Consolidate the Selected Reserve GI Bill with the new GI Bill. Benefits authorized under Chapter 1606 of Title 10 USC were last raised (except for annual COLAs) in 1999. The ratio between Chap. 1606 benefits and the MGIB benefits has plunged to 23.6% against a historical ratio of 47-48%.

Vocational Rehabilitation and Employment (VR&E) – MOAA recommends further extending the delimiting period for VR&E from 12 to 15 years after service and examining the effectiveness of VR&E outreach programs.

SURVIVORS' and DEPENDENTS' BENEFITS

Survivors' Educational Benefits – Support S. 1952 (Sen. Merkley, D-OR) to authorize P911 GI Bill benefits (Chapter 33, 38 USC) for survivor spouses of members who died in the line-of-duty after 10 September 2011 in lieu of Survivors and Dependents Educational Assistance (DEA) benefits. As an interim measure, if resources are not available for P911 GI Bill-level benefits, authorize DEA participants a housing allowance and book stipend.

Dependency and Indemnity Compensation (DIC) Equity – MOAA supports establishing the annual DIC rate at 55% of the compensation rate for a 100% service-connected veteran.

Caregivers of Catastrophically Disabled Veterans – MOAA recommends the Committees increase the income replacement rate for widow(er)s of catastrophically disabled veterans.

Retain DIC on Remarriage at Age 55 – MOAA recommends authorization of age-55 for retention of DIC upon remarriage in order to bring this benefit in line with rules for the military SBP program and all other federal survivor benefit programs.

CHAMPVA Dental – MOAA supports allowing Survivors qualified for CHAMPVA health care to be allowed to enroll in a proposed CHAMPVA Dental program.

NATIONAL GUARD AND RESERVE VETERANS

- Closely monitor the Office of Special Counsel's pilot project regarding enforcement of reemployment rights protections for Federal agency workers under the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- Support legislation to strengthen the USERRA as recommended by the Department of Justice in a forwarding letter to Congress from Vice President Biden (20 September 2011).
- Consider additional USERRA protections such as: requiring states to waive their sovereign immunity in cases requiring the enforcement of the statute; making workplace arbitration agreements unenforceable in disputes arising under USERRA; authorizing punitive damages against egregious violations of the statute and providing for a jury trial in such cases; and, requiring (under current law, "authorizing") a court to use equitable relief, including injunctions and restraining orders when appropriate, for USERRA violations.
- Assess the ongoing work of the GAO, tasked by the House Committee on Veterans Affairs, to study financial institutions' compliance with the Servicemembers Civil Relief Act (SCRA) prohibitions against mortgage foreclosure during periods of military service.
- Consider adopting additional improvements to the SCRA: imposition of civil fines for violations of the law; criminal penalties in egregious cases of SCRA violation; and recovery of

reasonable attorneys' fees by servicemembers from SCRA violators.

- Working with Armed Services Committees, support authorization for employers to pay TRICARE Reserve Select premiums — a lower-cost alternative to employer-provided coverage — as an incentive to hire and retain Guard and Reserve members.
- Ensure that the modified Transition Assistance Program (TAP) mandated in the “VOW to Hire Heroes Act” is tailored to meet the needs of de-activating Guard / Reserve members including local / regional adaptation.
- Support collaborative efforts with States and others that result in civilian credentialing / licensure for military skill training in designated employment fields.

Recognition of Career National Guard and Reserve Veterans – MOAA recommends the Senate Committee on Veterans Affairs approve the “Honor America’s Guard and Reserve Retirees Act”, S. 491 (Sen. Pryor, D-AR) to authorize that career members of the National Guard and Reserve who were never called up to Federal active duty and are entitled to or receiving military retired pay are veterans of the Armed Forces.

(Former) Clark Air Force Base, Philippines, Military Cemetery – MOAA supports legislation (H.R. 4168, Rep. Guinta, R-NH) to place the Clark AFB Military Cemetery under the control of the American Battle Monuments Commission.

MADAM CHAIR MURRAY, CHAIRMAN MILLER AND DISTINGUISHED MEMBERS OF THE COMMITTEES, on behalf of the 375,000 members of the Military Officers Association of America (MOAA), I am grateful for the opportunity to present testimony on MOAA’s major legislative priorities for veterans’ health care and benefits this year.

MOAA does not receive any grants or contracts from the federal government.

VETERANS’ HEALTH CARE

MOAA thanks the Committees for their leadership and steadfast resolve to preserve and protect veterans’ health care and benefits. We are also extremely appreciative of the Administration and VA’s commitment to maintaining viable and robust funding for VA programs as highlighted in the Fiscal Year (FY) 2013 President’s Budget submission.

The advance appropriations process has once again allowed the VA to continue health care system operations and not get caught up in the budget battles that caused delay in earlier appropriations cycles.

We appreciate Secretary Shinseki’s commitment to breaking down bureaucratic barriers while continuing to aggressively push for transformation of VA health and benefits systems in the interest of our nation’s veterans. MOAA is grateful for the Secretary’s outreach efforts to military and veterans’ service organizations through monthly and quarterly meetings and we look forward to a continuing collaboration with the Department and the Committees.

Integrity, Management, Finances, and Accountability of VA-Health Systems — While the Secretary’s efforts to transform the VA have been significant, they have not been without difficulty. The transformation of the health system into a more agile, uniform and patient-centered system that is fully integrated with other VA functions has not yet been achieved.

Many of the bureaucratic issues plaguing the health care system are also barriers to progress across the VA enterprise — issues which inhibit uniformity, consistency of operations, increase costs and limit achievement of a system that can respond to changing requirements. These issues include:

- Lack of systematic compliance, accountability and oversight;
- Limitations on information sharing, accuracy of information, and communications; and,
- Multiple segregated policies, programs, and services that are duplicative, inefficient, ineffective, and add to the already confusing institutional morass.

Transforming VA will require a major cultural shift and steadfast long-term commitment and investment in funding health and associated benefits systems by leaders and across government agencies.

While Congress has been generous in supporting record levels of VA health funding in recent years, we know that budget pressures may make it challenging to sustain these levels in future years.

We adamantly believe that any reductions or delays in funding VA health care and benefits ultimately devalue veterans' service and erode the Department's ability to deliver services to veterans.

As a strong proponent of the 2013 Veterans' Independent Budget, MOAA urges the Committees to consider this resource in deliberating the VA budget requirements.

MOAA recommendations:

- Preserve funding of the health system and streamline financial accounting systems to achieve more real-time and accurate fiscal projections and advanced appropriation requirements.
- Prevent targeting of VA programs as offsets for budget shortfalls; oppose higher usage and drug co-payment fees for VA services.
- Enact legislation to exempt VA health care funding from automatic Sequestration cuts should Congress fail to reach agreement on national debt reduction.
- Maintain critical infrastructure and continue capital investments, modernization efforts, and veteran-patient-centric transformation initiatives, including full operability of electronic data and records to better meet the evolving and emergent needs of the 21st Century military and veteran populations.
- Oppose proposals that would combine VA and the Military Health Care System/TRICARE on the premise of creating efficiencies or alleged cost-savings in order to address mounting pressures resulting from the federal deficit or as a consequence of the Patient Protection and Affordable Care Act (P.L. 111-148).
- CHAMPVA-26. Pass legislation (H.R. 115, Rep Filner, D-CA) to permit adult children of Survivors entitled to CHAMPVA to be carried on their parent's insurance up to age 26 under specific circumstances. All other government and private sector plans mandate that such coverage must be made available.

Wounded, Ill and Injured Warrior Care & Support — Since 2007, every VA-DoD authorization and appropriations bill has sought to institutionalize a seamless and unified approach to caring and supporting America's combat and disabled troops, veterans and their loved ones.

After more than ten years of conflict, cultural impediments, insufficient oversight and inconsistent implementation of policy continue to hamper wounded warrior care and support — preventing the VA and DoD from leveraging the full extent of possibilities for collaboration, cooperation, and communication.

One of the most troubling issues that emerged from the Walter Reed scandal was the finding that the Services were “low-balling” disabled servicemembers’ disability ratings, with the result that many significantly disabled members were being medically separated and transferred to the VA rather than being medically retired (which requires a 30% or higher disability rating) — a trend that continues today, especially for those in the National Guard and Reserves.

Congress has taken positive steps to address this situation, including establishment of the Physical Disability Board of Review (PDBR) to give previously separated servicemembers an opportunity to appeal too-low disability ratings.

A jointly executed VA-DoD Integrated Disability Evaluation System (IDES) pilot has been implemented and expanded, but experience under IDES has shown that the fundamental goals it was to achieve – to be more streamlined, faster, less complex, and non-adversarial – have for the most part yet to be realized. The service member, typically without effective assistance, must navigate a still-complex adversarial system that is compromised by incomplete medical evaluations, overlooked conditions, and examinations omitting diagnoses – resulting in gaps in care, delays in decision-making, and lack of timely adjudication.

MOAA will continue to monitor the IDES. We request that the Committees work with the Armed Services Committees to streamline the system to ensure the fairest possible outcomes for our wounded warriors. Further, MOAA urges the Committees to ensure any restructuring of disability and compensation systems does not inadvertently reduce compensation levels for disabled servicemembers-veterans.

MOAA also urges continuing oversight for fully implementing interoperability of VA-DoD electronic medical records (EMR) to help reduce barriers to care and roadblocks in agency-patient relationships. MOAA is concerned that the timelines for achieving interoperability of EMR data keep getting pushed back. Should VA’s technology budget be reduced, the initiative would be at risk of being pushed far out into the future.

Though the war in Iraq has officially ended and the country looks at an exit strategy in Afghanistan, MOAA has serious concerns whether the longer-term stability and viability of policies, programs and services that have been put in law and executed for our wounded, ill, injured, and disabled members and their families remain a top priority.

MOAA recently learned that the VA and Defense officials have disbanded the Senior Oversight Committee (SOC), which was co-chaired by both Department Secretaries and was supposed to provide high level oversight, visibility and resolution on wounded warrior issues. The functions of the SOC have transferred to the lower-level Joint Executive Council (JEC).

MOAA has voiced concerns in previous years to the Committees and the Armed Services Committees, that such a move would lower functional responsibility to a significantly lower level within both Departments and reduce visibility and continued progress on these issues.

At a minimum MOAA believes the Veterans Affairs and Armed Services Committees should conduct joint hearings addressing the JEC's role, responsibilities, and effectiveness in daily oversight, management, collaboration between the Departments, and address issues highlighted in reports, investigations, and studies related to wounded, ill, injured and disabled programs.

MOAA recognizes the collaborative efforts of VA and DoD in care coordination, particularly in their efforts to support our catastrophically wounded, ill and injured. After a bumpy start, VA has implemented regulations and policies to compensate caregivers and help wounded warriors' caregivers coordinate care across government agencies and local communities through its Caregiver Support and Federal Recovery Coordination (FRCP) Programs.

However, the impact and experiences of wounded warriors and their caregivers with care coordination programs continue to be all over the map. Much of the confusion stems from having two programs; the FRCP and the DoD Care Coordination Program (RCP) are separately managed and operated. Rather than fulfilling the objective of jointness and seamlessness, the various bureaucracies too often end up putting their separate organizational interests ahead of those of wounded members and families.

We believe that Congress should revise and expand Sec. 1611 of Public Law 110-181 to mandate a single, joint VA-DoD program and establish an office for managing, coordinating and assisting wounded, ill, injured, and disabled members through recovery, rehabilitation, and reintegration. MOAA believes care coordination should encompass both medical and non-medical aspects to fully meet the range of needs veterans will experience over their lifetime. Integrating VA-DoD programs into a single Care Coordination Program will streamline processes, eliminate redundancies, reduce expenditures, and expedite services.

MOAA recommendations:

- Institutionalize medical and transitional support policies, programs and procedures across the VA health care and benefits systems to ensure those most catastrophically injured, ill or disabled transfer seamlessly from military status to veteran status with no break in continuity of care and services in both the short-term and over the lifetime of the veteran.
- Enforce accountability of congressionally-mandated VA and DoD wounded warrior policies and programs and establish permanent base-line funding for policy and program execution, research, staffing, and other resource requirements, including the integrated and legacy disability evaluations systems and caregiver programs.
- Establish a single, joint VA-DoD Care Coordination program office, consolidating the Federal Recovery Coordination Program (FRCP) and the military Recovery Care Coordination Program charged with managing, coordinating, communicating, outreaching, and assisting servicemembers, veterans and their families-caregivers through recovery, rehabilitation, and reintegration.

Psychological-Cognitive Health and Suicide Prevention – MOAA thanks the Committees for championing initiatives, policies and funding that address post-traumatic stress disorder (PTSD)

and traumatic brain injuries and your commitment to improving the psychological health and well-being of our veterans.

Additionally, we commend the VA for its staunch commitment to enhancing mental and behavioral health programs by working with the DoD and other government and non-government entities to address veterans' physical and psychological needs as a result of deployment-combat-related stressors and trauma injuries and wounds.

However, a decade of war has placed unprecedented demands and stressors on our warriors and families that will leave scars and unintended consequences for generations to come.

Our Association is deeply concerned about the exponentially growing need to address mental health, behavioral and cognitive conditions in light of the rising suicides, alcohol and substance use playing out across the veteran and military communities.

Veterans and their families tell us that they have seen much progress in improving policies and programs at the national level. However, they don't always see these policies and program implemented and interpreted consistently across all VA medical facilities.

The real tragedy for some veterans who really need help is that they may give up, or lose hope or trust in the system.

We hear frequent comments like:

"I don't trust the VA. I am constantly fighting with people in the VA medical center every step of the way to get help. It's like the VA is fighting with itself—why can't they just do what is right?" (PTSD Veteran Spouse-Caregiver)

"I'm frustrated because my providers seldom ask me how I'm doing. They talk to my wife as though I'm not in the room...when they don't talk to me it makes me feel like they don't care about me." (Amputee-TBI Veteran)

"The typical VA response to care is to give the patient a machine or medication."(PTSD-TBI Veteran Spouse-Caregiver)

VA acknowledges mental health and staffing shortfalls. MOAA urges Congress to continue to appropriate necessary funds which would allow continuation of the VA's expansion efforts of its mental health capacity to improve access, timeliness, quality, delivery, and follow-on care and information.

Expansion efforts and funds should include marketing and outreach to encourage enrollment of eligible veterans, with special emphasis on Guard-Reserve members, rural veterans and high risk populations.

We also encourage the Committees' support in establishing a single VA-DoD strategy and a joint Suicide Prevention Office that reports directly to the Department Secretaries.

MOAA recommendations:

- Ensure sufficient funding and access to psychological, trauma and cognitive treatment,

including evidenced-based mental/behavioral health, marital/family counseling services, and non-traditional and/or recreational therapies.

- Establish a joint VA-DoD strategy and joint program office for more uniform delivery and synchronization of critical care and services for reducing servicemember-veteran suicides.

Women Veterans — Today's force has changed significantly over the past decade and women are helping to change the face of the military as they join the service at higher rates than at any other time in history. As such, these women are also changing the face of the VA. Over 1.8 million women veterans are enrolled in VA care and that number is expected to grow by 30 percent over the next five years.

In FY2009 and 2010, PTSD, hypertension, and depression were among the top three diagnoses for women treated in VA facilities — and one in five women reported they had been a victim of military sexual trauma.

MOAA believes additional legislative authority is needed to help VA more effectively and efficiently deliver services and care, not only to women veterans, but also to the growing population of veterans who are married and/or have family responsibilities.

MOAA recommends the Committees continue to oversee issues affecting women veterans by

- Fully implementing P.L. 111-163, Caregivers and Veterans Omnibus Health Services Act of 2010 that provide equitable medical care and improved support services for female veterans including newborn care.

- Reconciling discrepancies related to reporting and supporting women impacted by military sexual trauma-assault in VA and DoD systems.

VETERANS BENEFITS

Disability Claims Management: Quality, Training, and Technology Upgrades

MOAA continues to support a comprehensive, integrated strategy for improving the claims-management system with primary emphasis on quality decisions at the initial stage of the process.

The Administration's budget request projects the VA will receive about 1.25 million claims for disability for the next fiscal year.

MOAA believes that the VA is making progress in attacking the claims backlog. Further progress won't come easily as the number and complexity of claims continues to rise after more than 10 years of conflict in Afghanistan and Iraq. Moreover, recently added diseases presumed caused by exposure to Agent Orange among Vietnam War veterans will further drive up the number of claims. Consistent, quality decisions on initial claims remain a crucial challenge for the VA.

An over-arching concern is that the quality of initial claims decision is a disappointing 84% system-wide.

MOAA recommends the Committees sustain vigorous oversight of VA's plans to modernize the claims system:

- Ensure the VA's approach is grounded in "deciding claims right the first time," not just meeting numerical quotas.
- Oversee the new case management model for claims processing and monitor other field-tested initiatives directed at improving quality and accuracy.
- Ensure that the Veterans Benefits Management System (VBMS) is provided sufficient and timely resources to develop into a comprehensive, paperless, and rules-based platform.
- Ensure that VA provides standardized training to employees, and tests all employees, including coaches and managers, on the skills, competencies, and knowledge required to do their jobs.
- Monitor employee performance standards and work-credit system, and support adequate incentives for quality and accuracy, not just production quotas.

Veteran Transition, Readjustment and Employment

MOAA is grateful for the Committees' bi-partisan collaboration on the "VOW to Hire Heroes Act" (P.L. 112-56), which the Association strongly supported.

When fully implemented the "VOW Act" can help address rising unemployment in the veteran population. The Veterans Retraining Assistance Program (VRAP) provision in the VOW Act offers the potential to address chronic unemployment in older (age 35-64) veterans by opening access to Montgomery GI Bill benefits for up to 100,000 of these veterans over the next few years.

Re-tooling the military transition assistance program (TAP) is another core feature of "VOW". Generations of separating and retiring service men and women have endured 'death by PowerPoint' presentations under TAP. A concerted effort by all stakeholders is needed to ensure a newly designed program will be useful to military men and women when they complete their service.

MOAA recommendations:

- Conduct oversight hearings soon after the implementation of the Veterans Retraining Assistance Program (VRAP) program in July, 2012 to ensure that outreach, recruiting and MGIB enrollments are on track.
- Grandfather VRAP participants whose licensing, training, or associate's degree program – leading to employment – won't be completed in the compressed timeframe authorized.
- Assess the TAP redesign at a joint hearing with the Armed Services Committees to ensure it meets the needs of separating service men and women.
- Extend the 31 December 2012 sunset date for the employer tax incentives in the Act to ensure sufficient information on the effectiveness of these incentives in hiring veterans and disabled veterans.

GI BILL PROGRAMS

Oversight, Outcomes, Transparency

The Post-9/11 GI Bill authorized under Chapter 33 of 38 U.S. Code is the most generous educational assistance program since the great World War II GI Bill.

The VA has made over 680,000 payments to colleges, universities and training programs on behalf of veterans, active duty service men and women and dependents who have received transferred benefits.

However, a year-long Senate investigation detailed troubling trends in GI Bill outcomes and oversight:

- 33% of new GI Bill payments went to For Profit colleges, which trained only 25% of enrolled veterans in 2009 – 2010, the first year under the new program
- 8 of the top 10 recipients of Chapter 33 funds were For Profit colleges
- The government spends more than twice as much per veteran at For-Profit colleges compared to public not-for-profit colleges
- Recruiting expenditures at certain For Profit schools greatly exceed student services for veterans, which in some cases essentially do not exist
- The Attorney General and multiple states have brought suit against certain For Profit schools for misrepresentation, recruiting abuses, inflated job placements and other deceptive practices.

MOAA recommends the Committees:

- Direct the Department of Veterans Affairs to work with the Department of Education to create an online “dashboard” so that prospective GI Bill users can more easily compare costs, credit and transfer policies, outcomes and graduation rates and related consumer-friendly information about colleges in all sectors.
- Further expand the VA’s on-campus VetSuccess program beyond the 80 campus, \$8.8 million program requested in the Administration’s budget request for FY 2013.
- Amend the educational counseling provisions in Chapter 36, 38 U.S. Code to mandate such counseling via appropriate means, including modern technologies, and permit veterans to “opt out”. It will be necessary to raise the \$6 million cap in the counseling provision to meet the enormous demand of new GI Bill enrollments.
- Establish a centralized complaint reporting and resolution process for veterans using GI Bill entitlement.
- Require that all programs receiving funding under the GI Bill be “Title IV” eligible; in other words, all post-secondary programs would have to meet Dept. of Education standards for accreditation and other requirements.
- Support legislation to account for all Federal educational assistance funding under the Title IV category. Changing the so-called “90/10” rule would compel all colleges and universities to demonstrate that their product is valuable enough to attract private sector students to pay for the education offered.
- Trademark the term “GI Bill” so that the Dept. of the VA can control the use of that term for GI Bill-related websites and deter other promotional media that present themselves as quasi-governmental sources of information on the GI Bill.

Towards A 21st Century GI Bill Architecture

MOAA continues to recommend the Committees work toward an integrated platform for GI Bill programs.

A streamlined architecture for the GI Bill is needed to support recruitment, reenlistment and readjustment outcomes for our nation's Armed Forces in the 21st century. Veterans, lawmakers, military recruiters, college administrators, non-degree trainers and the general public need a simple, transparent and clear understanding of the service that is required for earning entitlement to the GI Bill.

To maintain multiple, overlapping GI Bill program authorities causes confusion, increases administrative cost, and weakens the potential of these programs to efficiently support intended outcomes.

MOAA recommendations:

- Integrate all active duty and reserve duty programs in a single chapter in Title 38. Benefit eligibility should be based on two metrics: the length and type of military duty performed.
- Repeal Chapter 30, the Montgomery GI Bill – with appropriate grandfathering of remaining participants -- and amend language in the preamble to Chapter 33 to indicate that the program is intended to support recruitment, reenlistment and readjustment outcomes for the Armed Forces.
- Repeal Chapter 1607, 10 USC. MGIB benefits for operational active duty service performed by National Guard and Reserve servicemembers after 11 September 2001 were superseded by the P911 GI Bill.
- Consolidate the Selected Reserve GI Bill with the new GI Bill. Benefits authorized under Chapter 1606 of Title 10 USC were last raised (except for annual COLAs) in 1999. The ratio between Chap. 1606 benefits and the MGIB benefits has plunged to 23.6% against a historical ratio of 47-48%.

Vocational Rehabilitation and Employment (VR&E)

MOAA is grateful for the provisions in the “VOW to Hire Heroes Act” that improve VR&E and extend automatic eligibility through 2014 for active duty servicemembers referred by DoD with severe illnesses or injuries. The provision enables VR&E to provide rehabilitative services early in the disability evaluation process. The law also expands the Special Employer Incentive program to employers who hire veterans participating in VR&E even in cases where the veteran has not completed training. We also appreciate the VR&E upgrades in P.L. 111-377 that raised the subsistence allowance under the program to the housing allowance available under the P911 GI Bill.

MOAA recommends further extending the delimiting period for VR&E from 12 to 15 years after service and examining the reach and effectiveness and VR&E outreach programs.

SURVIVORS' and DEPENDENTS' BENEFITS

Survivors' Educational Benefits. The Gunnery Sergeant John D. Fry Scholarship program (P.L. 111-32) established Post-9/11 GI Bill benefit entitlement for the children of Fallen members of our Armed Forces who died in the line of duty after September 10, 2001.

Unfortunately, surviving spouses are ineligible for “Fry Scholarships.” At the time the legislation was being considered, no one stopped to think that the surviving spouses themselves would need a robust benefit in order to attain the skills and education to provide for their children and prepare them for college.

Survivors and Dependents Educational Assistance (DEA) program benefits under Chapter 35, 38 USC simply do not afford surviving spouses a realistic opportunity to raise young (in most cases) children and go to school concurrently without shouldering substantial financial debt while dealing with substantial life challenges.

For surviving spouses of the Iraq and Afghanistan conflicts, DEA translates to “college is unaffordable.” For full-time college enrollment, a Survivor receives only \$936 per month, no cost-of-living (housing) allowance, and no book stipend.

Today, the total potential DEA benefit is \$43,065 compared to \$53,028 under the MGIB. But, the Fry Scholarships pay the full cost of enrollment at any public college or university, a housing allowance based on a Sergeant’s (E-5) “with dependents” housing rate for the zipcode of the college, and up to \$1000 annually for books.

MOAA recommends the Committees support S. 1952 (Sen. Merkley, D-OR) to authorize P911 GI Bill benefits (Chapter 33, 38 USC) for Survivor Spouses of members who died in the line-of-duty after 10 September 2011 in lieu of Survivors and Dependents Educational Assistance (DEA) benefits. As an interim measure, if resources are not available for P911 GI Bill-level benefits, authorize DEA participants a housing allowance and book stipend.

Dependency and Indemnity Compensation (DIC) Equity. DIC, which is paid to survivors of those who paid the ultimate sacrifice, is set at a flat rate for all. MOAA believes DIC should be set at 55% of the compensation paid to 100% service-disabled veterans and placed on an equal footing with survivors of disabled civil service employees. Survivors of federal workers have their compensation set at 55% of their Disabled Retirees’ Compensation. The November 2009 GAO report on Military & Veterans’ Benefits (GAO 10-62) found that “DIC payments are almost always less than workers’ compensation payments for survivors of federal employees who die as a result of job-related injuries.” MOAA supports establishing the annual DIC rate at 55% of the compensation rate for a 100% service-connected veteran.

Caregivers of Catastrophically Disabled Veterans. Catastrophically disabled veterans, whose spouses serve as primary care givers, receive additional allowances due to the severity of their service-connected multiple disabilities. Spouses who are full-time caregivers are precluded from earning a retirement or Social Security benefits in their own right. When the veteran dies, the widow(er)’s income is reduced to the same DIC rate that other surviving spouses of veterans receive when the death was service connected. The percentage of replacement income can be as little as 15%. The income replacement of other federal survivor benefit plans is close to 50% of the benefit upon which they are based. MOAA recommends the Committees increase the income replacement rate for widow(er) s of catastrophically disabled veterans.

Retain DIC on Remarriage at Age 55. Legislation was enacted in 2003 to allow eligible military survivors to retain DIC upon remarriage after age 57. At the time, Congressional staff advised that age-57 was selected only because there were insufficient funds to authorize age-55 retention of DIC upon remarriage. MOAA recommends authorization of age-55 for retention of DIC upon remarriage in order to bring this benefit in line with rules for the military SBP program and all other federal survivor benefit programs.

CHAMPVA Dental. MOAA supports allowing Survivors qualified for CHAMPVA health care to

be allowed to enroll in a proposed CHAMPVA Dental program. The proposal, which is modeled on the TRICARE Retiree Dental Plan, would have no PAYGO offset requirement since it would be fully funded by enrollees' premiums.

NATIONAL GUARD AND RESERVE VETERANS

National Guard and Reserve servicemembers who have served a qualifying period of active duty are unique in the veterans' community, as many continue to serve in uniform. These 'dual-status' veterans face special challenges associated with their status including rising unemployment rates.

Since September 11, 2001, more than 842,000 Guard and Reserve members have served on operational active duty (as of 21 February 2012), and approximately 300,000 or more have served on multiple tours.

The FY 2012 National Defense Authorization Act further expanded DoD's "operational reserve" policy by authorizing non-emergency access to the Guard and Reserve. The NDAA contains a provision that permits the Service Secretaries to activate up to 60,000 reservists for up to one year to perform pre-planned, budgeted missions that will no longer require a national emergency declaration by the Commander in Chief.

Routine Federal call-ups for non-emergency missions are unprecedented in our nation's history. With this sea-change in reliance on the Reserves, it will be critical for the Committees, working with the Armed Services Committees, to ensure that this expansion of policy does not adversely affect Guard and Reserve members, their families and employers.

MOAA recommends the Committees:

- Closely monitor the Office of Special Counsel's pilot project regarding enforcement of reemployment rights protections for Federal agency workers under the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- Support legislation to strengthen the USERRA as recommended by the Department of Justice in a forwarding letter to Congress from Vice President Biden (20 September 2011).
- Consider additional USERRA protections such as: requiring states to waive their sovereign immunity in cases requiring the enforcement of the statute; making workplace arbitration agreements unenforceable in disputes arising under USERRA; authorizing punitive damages against egregious violations of the statute and providing for a jury trial in such cases; and, requiring (under current law, "authorizing") a court to use equitable relief, including injunctions and restraining orders when appropriate, for USERRA violations.
- Assess the ongoing work of the GAO, tasked by the House Committee on Veterans Affairs, to study financial institutions' compliance with the Servicemembers Civil Relief Act (SCRA) prohibitions against mortgage foreclosure during periods of military service.
- Consider adopting additional improvements to the SCRA: imposition of civil fines for violations of the law; criminal penalties in egregious cases of SCRA violation; and recovery of reasonable attorneys' fees by servicemembers from SCRA violators.
- Working with Armed Services Committees, support authorization for employers to pay TRICARE Reserve Select premiums as an incentive to hire and retain Guard and Reserve members.
- Ensure that the modified Transition Assistance Program (TAP) mandated in the "VOW to Hire Heroes Act" is tailored to meet the needs of de-activating Guard / Reserve members including

local / regional adaptation.

- Support collaborative efforts with States and others that result in civilian credentialing / licensure for military skill training in designated employment fields

Recognition of Career National Guard and Reserve Veterans

National Guard and Reserve members who complete a full Guard or Reserve career and are receiving or entitled to a military pension, government health care and other benefits are not “veterans of the Armed Forces of the United States,” unless they have served a qualifying period of active duty.

This strange situation exists because the definitions of “veteran” in Title 38 limit the term to service men and women who have served on active duty under Title 10 orders.

For example, National Guard members who served on military duty orders (other than Title 10) at Ground Zero in New York City on Sept. 11, 2001, the Gulf Coast following Hurricane Katrina, the BP oil spill catastrophe off the Gulf Coast, or conducted security operations on our Southwest border, and subsequently retired from the National Guard are not deemed to be veterans under the law unless at some point they had served on Title 10 orders.

Due to military funding and accounting protocols, many reservists performed operational missions during their careers but the orders purposely were issued under other than Title 10 to avoid crediting the service as de facto “active military service.”

Ironically, these career reservists have earned specified veterans’ benefits, but they can’t claim that they are veterans.

MOAA is grateful to the House Veterans Affairs Committee and the full House for twice passing enabling legislation. H.R. 1025 (Rep. Walz, D-MN) passed the House on 11 October 2011 and has been referred to the Senate. The bill would establish that National Guard and Reserve members who are entitled to a non-regular retirement under Chapter 1223 of 10 USC and who were never called to active federal service during their careers are veterans of the Armed Forces. The legislation would prohibit the award of any new or unearned veterans’ benefits.

MOAA recommends the Senate Committee on Veterans Affairs approve the “Honor America’s Guard and Reserve Retirees Act”, S. 491 (Sen. Pryor, D-AR) to authorize that career members of the National Guard and Reserve who were never called up to Federal active duty and are entitled to or receiving military retired pay are veterans of the Armed Forces.

(Former) Clark Air Force Base, Philippines, Military Cemetery

When U.S. forces hastily departed the Philippines in 1991, no provision was made for the long-term maintenance and upkeep of the Clark Air Force Base (AFB) Military Cemetery. The cemetery contains the remains of 8600 American service members, veterans and family members from the Spanish American War through the present conflicts. The U.S. Air Force maintained the cemetery from 1951 until 1991.

Clark AFB Military Cemetery remains in operation. Last year, an Iraq conflict serviceman and a Vietnam War Silver Star recipient were interred in the cemetery.

Thanks to the extraordinary efforts of a local VFW Chapter and private support from the “Clark Veterans Cemetery Restoration Association”, the Cemetery has not been allowed to slip into complete disrepair.

But Clark AFB Military Cemetery has been abandoned by the United States government. We have dishonored the memory of the fallen that lie buried there.

MOAA recommends the Committees approve bi-partisan legislation (H.R. 4168, Rep. Guinta, R-NH) to place the Clark AFB Military Cemetery under the control of the American Battle Monuments Commission.

Conclusion

MOAA is grateful to the Members of the Committees for your leadership in supporting our veterans and their families who have “borne the battle” in defense of the nation.