

WRITTEN TESTIMONY

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As Legislative Director of the National Guard Association of the United States, I thank you for the honor of submitting testimony with Senate Committee on Veterans' Affairs on pending benefits legislation. This testimony will respond to Chairman's request to address S. 602; the G.I. Bill Fairness Act of 2015; the legislative proposals to implement Recommendations 11 and 12 of the Military Compensation and Retirement Modernization Commission (MCRMC); and the legislative proposals from the Department of Defense (DoD) regarding Education Benefits, Transition Assistance Program and Advisory Board on Dose Reconstruction (sections 514, 522, 542, 545 and 1041). This statement will also comment on S. 865- the Ruth Moore Act of 2015. Thank you for this opportunity.

NGAUS strongly supports S. 602

NGAUS strongly supports S. 602 which would amend the Post 9/11 Veterans Educational, Assistance Act of 2008 (Public Law 110-252) to recognize time National Guard and Reserve members serve on active duty receiving medical care as "active duty" for the purposes of eligibility for education assistance and to retroactively apply the amendment to the enactment date of Public Law 110-252 (hereinafter referred to as the Post 9/11 G.I. Bill).

In order for members of the reserve components to qualify for educational benefit purposes under the Post 9/11 G.I. Bill as currently written, they must serve on active duty served under section 608, 12301 (a), 12301 (d), 12301 (g), 12302, or 12304 or section 712 of title 14. See 38 USC Section 3301(1) (B). Active duty service for medical 10 USC Section 12301(h) is not included because that authority did not exist when Post 9/11 G.I. Bill was enacted.

10 USC 12301(h) was enacted to authorize National Guard and Reserve members to remain on active duty for full pay and allowances for treatment and evaluation of their service connected injuries and for other medical purposes. This addressed

an ongoing problem during the wars of our members returning to their civilian lives unable to earn a living because of their debilitating but treatable injuries.

When Congress enacted 10 USC 12301(h) during the ongoing OIF/OEF wars, it did not contemporaneously amend the existing Post 9/11 GI Bill in title 38 to qualify reserve component active duty served under 10 USC 12301(h) for educational benefits. This appears to have been an oversight during a very busy time.

NGAUS strongly supports this bill because the length of time reserve-component members serve on qualifying active duty determines their level of eligibility for education assistance. All active duty days need to be counted.

Active-duty members receive full credit for education assistance for their time spent receiving medical care for service-connected injuries. In fairness, National Guard and Reserve members deserve the same.

Not allowing educational benefits to apply to active duty served by the reserve components on for medical treatment discriminates harshly against our Guard and Reserve wounded warriors who have bravely served the nation. This needs immediate correction that S. 602 would do with full retroactivity to the enactment of the Post-9/11 G.I. Bill.

Please support this legislation and urge your colleagues to do the same.

Recommendation 11 of the Military Compensation and Retirement Modernization Commission

NGAUS concurs with recommendation 11 and the legislative proposal to implement if with a few exceptions.

When enacting the consolidation recommendation, Congress needs to grandfather all in place service agreements relative to the transfer of Post 9/11 G.I. Bill benefits to dependents to include grandfathering any BAH currently being received by dependents.

The Post 9/11 G.I. Bill benefit must also be amended to cover all National Guard Title 32 active duty period of 90 consecutive days or longer responding to a national emergency pursuant to orders issued under the authority of Title 32

section 502 (f). This will compensate for benefits National Guard members would lose with the recommended elimination of REAP.

With respect to Army's Federal Tuition Assistance referenced in the MCRMVCV report, the current program needs to restore the full benefit for the Army National Guard before being allowed to go forward as it is currently administered.

On Jan. 1, 2014 the Army imposed restrictions on utilization of the FTA for all Army components which prohibits use of FTA until one year after completion of Advanced Individual Training (AIT) or Basic Officer Leadership Course (BOLC). This has been particularly harmful to the ARNG participation in FTA which has declined by 18 percent and reduced total course enrollment by 31 percent. Consequently, the ARNG distributed only \$59.98 million of the \$73.8 million appropriated in 2014 for that purpose.

The Army's Federal Tuition Assistance (FTA) program has provided valuable financial assistance to citizen soldiers of the Army National Guard (ARNG) to advance their professional development as a soldier with benefits of up to \$250 per semester credit hour or \$167 per quarter credit hour not to exceed \$4,500 a year; and 100 percent of high school equivalency tuition and fees up to \$4,000 annually.

The optimal time for ARNG soldiers to enroll in full time education programs is immediately after completion of their initial entry training. Immediate utilization of the FTA following initial training has not only been a valuable recruiting tool for the citizen soldier but it has effectively placed soldiers on a fast career development track. ARNG soldiers are in a better position than their active duty counterpart to enroll as full-time students while serving in the military.

Soldiers receiving FTA within two years of accession have a higher retention rate than those not using FTA; soldiers using FTA within three years of enlistment have higher commission rates and are more likely to be higher quality accessions based on AFQT scores.

Congress must assure restoration of FTA for the ARNG by rescinding the one year wait restriction imposed by the Army and return authority to the Army National Guard to implement a federal tuition assistance policy that addresses the unique needs of the Guard soldier.

Recommendation 12 of the Military Compensation and Retirement Modernization Commission –Making Transition Assistance Programs Mandatory but with Improvements

NGAUS concurs with this recommendation in theory but the practice needs amending to provide transition assistance services to separating members of the military closer to their homes which in truth may be as far as a continent away from the active installation hosting the Transition Assistance Program (TAP) they attended.

Mental health providers in Florida reported last year that they treat veterans returning home to Florida after separating from the military who were totally unaware of the community mental health services available in that state.

Mental health is only one of the services that a veteran may seek once home. They would also profit from awareness of what, where and from whom local employment and veteran assistance services are available. Receiving briefings from local personnel who will be administering these programs in their communities would allow our veterans to associate a face with a service. This would only enhance accession of those services as transition may require.

Each state likely has the existing force structure through its National Guard Joint Force Headquarters to provide a facility and personnel for administering portions of TAP better delivered at the state level that could connect to local state and federal agency staff who likely have been delivering similar transition briefs to demobilizing Guard members throughout the war years.

This would provide a proven alternative or adjunct to existing TAP operations. One with the potential to save money for the government and likely anxiety on the part of the returning veteran with the better connectivity to in state resources that it would provide.

Department of Defense Legislative Proposals

NGAUS applauds and thanks DoD for this proactive effort in behalf of the reserve components that addresses problems that have emerged during the wars or are likely to emerge with future deployments.

Section 514

Please refer to the discussion above relative to S. 602.

NGAUS certainly supports the DoD proposal to amend 38 USC 3301(1) (B) to include reserve component active duty for medical care served under 10 USC 12301(h) as active duty for Post 9/11 G.I. Bill education eligibility purposes but it needs to go further.

The proposed DoD amendment needs to incorporate the language of S. 602 so that it would be retroactively applied to the enactment of the Post 9/11 G.I. Bill. This would correct an apparent error in the legislative process that would provide equality in education benefit eligibility for all active duty and reserve component wounded warriors for their active duty time receiving medical care.

Section 522

NGAUS supports this DoD proposal that similar to section 514 discussed above that equitably recognizes and protects reserve component active duty deployments under authorities that did not exist when chapter 1606 of title 10, U.S Code was enacted.

Montgomery G.I. Bill educational benefits lost because of reserve component active duty deployments under 10 USC 12304a and 12304b cannot currently be regained under the protections afforded by 10 USC 16133 which apply only to deployments under other older authorities.

Section 522 would correct this by amending 10 USC 16133 to allow the member to regain those benefits when a reserve component member could not complete studies because of an activation order under 10 USC 12304a or 12304b.

Section 522 would update protections in a fair and sensible manner. However, just as with section 514, there needs to be retroactive application to allow members of the reserve component to regain benefits lost because of past deployments under 10 USC 12304a or 12304b.

Section 542

NGAUS strongly supports amend this additional updating effort that would expand involuntary mobilization authorities exempt from the Uniform Services Employment Reemployment Rights Act (USERRA).

Extended mobilizations beyond five years were harshly handled during the wars by some of our nation's airlines in disallowing Air National Guard pilots to return to work who served more than five years protecting our nation's airspace under Operation Noble Eagle /Air Sovereignty Alert orders. Legislation was passed late in the wars to address this.

Section 542 is a forward looking effort that would protect reserve components members from an adverse employer's denial of reemployment based on a technical interpretation of existing USERRA law that does not apply to evolving deployment authorities.

Section 545

NGAUS supports section 545 recognizing that TAP is not needed for reserve component deployments less than 180 days or for longer periods of active duty for training. This would save the members' time and the government time and money. Moreover, any transition assistance required by National Guard members is more effectively and economically available through their assistance programs delivered within their states and managed by their Joint Force HQ.

Section 1041

NGAUS has scant experience with the programs covered by this proposal. Nevertheless, the proposal makes good economic and sustainment sense and avoids unnecessary duplication of effort by transferring to DoD and the Veterans Administration the duties still assigned to an aging Federal Advisory Committee that are actively and expertly being worked at DoD and VA.

S. 865

These comments are somewhat gratuitous but in review of the disability compensation protections that would be afforded sexual assault victims under S. 865- Ruth Moore, it is an opportunity to remind Congress of an alternative but

underfunded authority to embed mental health providers in armories and Reserve Centers.

Embedded licensed mental health care professionals embedded in armories and Reserve centers provide an onsite confidential touch point for sexual assault victims to report a sexual assault incident outside of the victim's chain of command.

The embedded provider based the victim's civilian community will be well versed in what local support and prosecution services are available and can guide and advise the victim through that ticket.

Moreover, sexual assault is the trigger and a precursor to a host of behavioral issues that can be immediately and confidentially addressed by an embedded mental health professional. This would not only help to protect and document a future disability claim but might well be a first step in preventing a suicide arising from the assault.

The bill also grasps the need for victims to be able to support a disability claim from community based treatment outside of the Veterans Administration which may be perceived as male dominated and unfriendly to victims.

There is a profound and ongoing need for Congress to fund confidential community based counseling services for veterans and their families similar to the successful Connecticut model that is administered cost effectively and efficiently with 24/7 access for veterans and families in crisis mode.