



STATEMENT
of the
MILITARY OFFICERS ASSOCIATION OF AMERICA
on
Pending Legislation
before the
Senate Committee on Veterans Affairs
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Presented by

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CHAIRMAN SANDERS, RANKING MEMBER BURR AND DISTINGUISHED MEMBERS OF THE COMMITTEE, on behalf of the over 380,000 members of The Military Officers Association of America (MOAA), I am pleased to present the Association's views on selected bills under consideration at today's hearing.

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

S. 1148, Veterans Benefits Claims Faster Filing Act (Sen. Heinrich, D-NM).

S. 1148 would require the Department of Veterans Affairs (DVA) to compare the average claim processing time for various veterans' benefits depending on the method of filing, and to compare the grant of veterans' benefits among represented and unrepresented veterans. The bill would make these reports available in each regional office and on the VA's website.

The data on benefits grants percentages would be reported based on whether the veteran was unrepresented, represented by a veteran service organization representative, or represented by another individual (usually an agent or attorney). The data on average processing time would compare processing time for two variables in claim filing methods: paper versus electronic filing, and fully developed claim filing versus non-fully developed claim filing.

MOAA is supportive of directing the Secretary to provide information about the effect of representation on grants of veterans' benefits. However, we are concerned that the report should compare like data points: many attorneys and agents screen cases and focus on representation of appeals, whereas veteran service organization representatives represent almost any claimant and provide complete claims service through the agency. We suggest that the Department of Veterans Affairs be directed to provide grant percentages for both original claims and appeals, and to provide an explanation of how the data is obtained.

MOAA is also supportive of directing the Secretary to analyze the results of VA's transformation to fully developed claims and electronic processing by reporting the average claim processing times. However, again, we are concerned that the report should compare like data as more veterans and representatives choose to use electronic filing methods and participate in the fully developed claims program.

We suggest that only the types of claims eligible for the fully developed claim program and electronic processing be included in this report, to make a direct comparison of the different filing methods. Also, we suggest that the form numbers (i.e., 21-526ez) or the breakdown on the VA's Monday Morning Workload Reports (i.e., by initial claim for compensation, less than seven issues) be used to separate results, so that claims for similar benefits can be

compared. Certain benefits may lend themselves to the fully developed claim process and others may not.

We also suggest that the definition of “claim” include not only the “rating bundle” used to define VA’s progress on the claims backlog and quality improvement measures, but also the “award adjustment” of a dependency claim. Although data on the average claim processing time of dependency claims may not be included in the VA’s aspirational goals, it is very important in understanding that the way a claim is filed matters to the timeliness of a decision.

MOAA also would recommend the language of “durable power of attorney” be changed to “VA limited durable power of attorney”, to reflect that a power of attorney to represent a veteran in matters before the Department of Veterans Affairs has no effect on health and medical care decisions and other legal matters beyond the authorization on VA Form 21-22 or 21-22(a).

MOAA is supportive of the intent of S. 1148, the Veterans Benefits Claims Faster Filing Act, and recommends: the bill be amended as outlined above; it reflect the nature of a VA power of attorney; and, enhance the data collected for the benefit of veterans’ benefits claimants.

S. 1558, Veterans Outreach Enhancement Act of 2013 (Sen. Begich, D-AK)

S. 1558 would require the DVA to extend outreach services to veterans via cooperative awareness programs with various Federal and state agencies. The bill provides resource incentives for state, local governments and veteran service organizations (VSOs) to assist veterans in utilizing DVA facilities and resources available to them. Other objectives of the legislation are to educate communities and State and local governments about employment and reemployment rights of veterans under the Uniformed Services Employment and Reemployment Rights Act (USERRA); provides technical assistance to veteran owned businesses; and, encourages non-profit groups, businesses and institutions of higher education to assist veterans. ***MOAA supports S. 1558.***

S. 1211, (Sen. Boxer, D-CA).

S. 1211 would prohibit the use of the phrases ‘GI Bill’ and ‘Post-9/11 GI Bill’ to give a false impression of approval or endorsement by the Department of Veterans Affairs.

S. 1211 is consistent with recommendations that MOAA and other military and veterans service organizations made to the President on the issue of improving the oversight,

outcomes reporting and consumer education of Department of Defense (DoD) and Department of Veterans Affairs (DVA) military and veterans educational benefit programs. Some of those recommendations are included in Executive Order 13607, Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses and Other Family Members (27 April 2012).

A specific MOAA recommendation reflected in Executive Order 13607 was to trademark the term “GI Bill”. Any entity that wishes to employ the term “GI Bill” must gain the DVA’s approval to use it. Subsequently, “GI Bill” has been trademarked and the DVA is responsible for enforcing its use. However, since trademarks are not permanent, MOAA believes that S. 1211 is needed to ensure the terms “GI Bill” and “Post-9/11 GI Bill”, signifying taxpayer-provided and government-administered educational programs for military members and benefits, are permanently protected.

We would, moreover, recommend consideration of including the phrases, “military friendly schools” and “veteran friendly schools” in the legislation, because these terms are bandied about by lead-generators and marketing operations to imply quasi-government endorsement, or unique services to student veterans that may not actually exist at self-identified “military friendly” or “veteran friendly” schools. We believe it’s very important for our government to provide reasonable consumer education protections for our returning warriors as they separate from military service and re-engage with their communities. *MOAA endorses S. 1211.*

S. 1262, the Veterans Conservation Corps Act of 2013 (Sen. Bill Nelson, D-FL).

S. 1262 would establish a veterans conservation corps to assist veterans in the transition from military to civilian life and to employ them in conservation, resource management and historic preservation projects on public lands; and temporary employment as law enforcement officers, firefighters, and disaster relief personnel.

MOAA appreciates Sen. Nelson’s leadership on this issue but is concerned over potential public perception and with veterans themselves that the bill is a make-work program and not a true path to long-term careers after military service.

S. 1262 does not appear to directly link the work and projects set out in the legislation with appropriate formal training, licensing or certification in the career areas described for GI Bill benefit purposes. A provision should be included in the bill that directs the Secretary of Veterans Affairs to establish approval of the training and work experience by State Approving Agencies leading to award of appropriate licensure or certification in specific fields in conjunction with GI Bill program payments under Chapter 30 or Chapter 33, 38

U.S. Code. Another option to consider, instead of creating a new program, is to increase job training, OJT and work-study reimbursement rates under the Post-9/11 GI Bill and the Montgomery GI Bill.

MOAA is supportive of the intent of S. 1262 and recommends amending the legislation to ensure veterans can receive a designated license, certification or OJT credential under the GI Bill at the conclusion of service in the veterans conservation corps. The legislation should lead to clear long-term career opportunities for veterans.

S. 1295, (Sen. Brown, D-OH).

S. 1295 would require the VA to notify veterans (or their representatives) that they may use a veteran service organization representative (VSO) for the claims process when filing an electronic claim. The bill states that notice should include a list of names and web addresses for the VSOs. Currently, veterans receive a receipt for electronic claims filed through VONAPP Direct Connect in the eBenefits portal. There is a representative/agent/lawyer search in the eBenefits portal already that does not include websites but does list organization name, address and phone number. The VA website instructs veterans to use the VSO search before filing a claim but there is no such instruction in the eBenefits portal.

While MOAA supports the intent of the bill, the bill does not require the same notification for veterans filing a paper based claim. Veterans that file a fully developed paper claim through the mail using VA Form 526-EZ do not receive a notification that they may use a VSO until after the VA adjudicates their claim. MOAA recommends that the bill be expanded to cover veterans that file formal and informal claims by paper. MOAA supports the inclusion of web addresses for VSOs and other representatives to the representative search function in eBenefits.

MOAA is supportive of the intent of S. 1295, and recommends that the bill be amended to provide notification to veterans and other claimants that file claims by paper based methods.

S. 1361, World War II Merchant Mariner Service Act (Sen. Murphy, D-CT).

S. 1361 is a bi-partisan, no-cost bill that expands and clarifies the types of documentation for determining veterans status of certain “coastwise merchant seamen” (Merchant Mariners) during World War II, and for other purposes.

The GI Bill Improvement Act of 1977 (Public Law 95-202) provided that the Secretary of Defense could determine that service for the Armed Forces by organized groups of civilians,

or contractors, be considered 'active service' for benefits administered by the Veterans Administration.

In the case of World War II Merchant Marines, documenting their service has been difficult due to wartime security restrictions, destroyed ship logs and unavailable merchant mariner documentation known as a Z-card.

S. 1361 provides additional methods for documenting such service for consideration as active service by the Secretary of Veterans Affairs.

S. 1361 would authorize burial benefits; medals, ribbons and decorations; and status as a veteran (with no additional benefits) for Merchant Mariners who provide appropriate documentation under the bill. The bill also permits a primary next-of-kin of deceased WWII Merchant Mariners to submit evidence on their behalf of service to the United States.

MOAA supports the World War II Merchant Mariner Service Act, S. 1361.

S.1399, the Servicemember Student Loan Affordability Act (Sen. Durbin, D-IL)

S. 1399 would amend the Servicemembers Civil Relief Act (SCRA) to extend the interest rate limitation of six percent (6%) in two ways. A service member and the servicemember's spouse jointly who wish to refinance a student loan debt incurred before entering the service could do so at a rate not to exceed 6 percent. Under the bill, the 6% rate cap also could be applied to a student loan debt incurred by a servicemember and the servicemember's spouse jointly during military service.

Servicemembers enjoy a 6% rate cap on all pre-service loans under the SCRA. However, the law does not apply if a servicemember consolidates student loans that were taken out before their military service.

Loan consolidation is a practical, effective way to manage student loan debt. It's also the only way a borrower who has a Federal Family Education Loans (FFEL) or Perkins student loan can enroll in the federal Public Service Loan Forgiveness (PSLF) program, a program that forgives student loan debt after 10 years of public service, including military service.

Unfortunately, servicemembers with student loans taken out before they joined the military who want their military service to count toward the 10 years of public service required under the loan forgiveness program must consolidate their student loans. But then they promptly lose the 6% loan rate cap that is afforded them by the SCRA.

This legislation could be particularly beneficial for supporting Armed Forces recruitment of highly qualified candidates with unique skills in demand by the military. *MOAA supports S. 1399, the Servicemember Student Loan Affordability Act.*

S. 1573 (Sen. Tester, D-MT). S. 1573 is a bi-partisan bill that would authorize the Department of Veterans Affairs (DVA) to immediately pay temporary Dependency and Indemnity Compensation (DIC) for up to six months to surviving spouses of fallen service members and veterans who died of a service-related disability.

S. 1573 is common sense, no-cost legislation that enables quick payments from the DVA to eligible surviving spouses pending the receipt of formal paper work. Under Secretary of Veterans Benefits, the Honorable Allison Hickey, voiced the need for this legislation earlier this year in response at a Congressional hearing.

The legislation provides a financial bridge to support the essential needs of survivors who in many cases have endured hardship caring for a seriously disabled veteran. *MOAA strongly supports S. 1573.*

S. XXXX, Servicemembers Civil Relief Act (SCRA) Enhancement and Improvement Act of 2013 (Sen. Sanders, I-VT).

The SCRA Enhancement and Improvement Act incorporates a number of needed technical fixes and enhanced protections for military women and men called to active Federal service.

The SCRA was originally enacted in World War II when hundreds of thousands of National Guard service members and conscripts were being called to the colors. The need then and today was to create a financial and legal safety net primarily for our citizen-warriors and their families so that they could focus on their mission.

After September 11, 2001 Congress adopted numerous upgrades to the SCRA to protect the interests of active duty service members and their families, as well as the National Guard and Reserves when activated.

Almost 900,000 reservists have been activated since Sept. 11, 2001 and over 300,000 have been called up for second, third or fourth tours of active duty. The nation's reliance on the Guard and Reserve to support national security objectives at home and overseas has never been greater.

It is, in fact, our national policy to employ the Guard and Reserve in the operating force on a routine basis for the indefinite future. Under the DoD's "operational reserve" policy

promulgated in January 2007 by then-Secretary Robert Gates, reservists are expected to be trained and ready for active duty service one year out of every five. Many reservists have actually been deployed as frequently as their active duty counterparts: three years' 'at home' and one year deployed. DoD leaders have indicated that the routine use of reserve capabilities will continue after the withdrawal from Afghanistan (2014) and the drawdown of the entire force as a result of sequestration and budget uncertainties.

In this context, it's hard to overstate the importance of the SCRA to morale, family well-being and military readiness.

The SCRA Enhancement and Improvement Act expands mortgage protections for service families required to move under 'permanent change of station' (PCS) orders; preserves professional licenses that expire during a combat zone deployment; protects service families denied or refused credit solely because of the SCRA; raises financial penalty limits for willful violation of the statute; provides the Attorney General enforcement authority for the SCRA; and makes a number of other changes as summarized below.

Title I, SCRA Enhancements

Section 101 would extend the coverage period for the protections under installment sales contracts to one year after a period of military service.

Section 102 would amend section 303(b) of the Servicemembers Civil Relief Act (SCRA) by changing "filed" to "pending" so that servicemembers may be eligible for stays of proceedings or adjustments of an obligation on real or personal property even if the action was filed before they entered service, or during a break in service.

Section 103 would prohibit the accrual of mortgage prepayment penalties incurred during a period of military service when discharging an obligation on a primary residence as the result of a receipt of permanent change of station orders.

Section 104 would provide servicemembers with relief from expiration of licenses or continuing education requirements during periods of eligibility for hostile fire or imminent danger pay and for an additional 180 days after such eligibility ends.

Section 105 would extend the protections preventing sale of personal and real property to collect unpaid taxes or assessments without a court order to real property owned by a business that is owned entirely by a servicemember or a servicemember and the servicemember's spouse.

Section 106 would prevent a servicemember from being denied or refused credit solely by reason of eligibility for the SCRA.

Title II, SCRA Improvements

Section 201 would clarify that the plaintiff in a default judgment action has an affirmative obligation to determine the defendant's military status and that the plaintiff must take steps accordingly, including but not limited to reviewing available Department of Defense records. It would also define the due diligence required of an attorney appointed by the court to represent a defendant who may be in military service.

Section 202 would prevent a waiver of a servicemember's SCRA rights or protections until after the occurrence of the event that gave rise to the rights or protections to be waived.

Section 203 clarifies that the Attorney General's authority to enforce the SCRA and an individual's right to file a private right of action existed before enactment of the Veterans' Benefits Act of 2010, which made this right explicit.

Section 204 would apply the protections related to mortgages to obligations on real or personal property for which a servicemember is personally liable as a guarantor or co-maker.

Title III, SCRA Enforcement

Section 301 would make arbitration clauses unenforceable unless all parties consent to arbitration after a dispute subject to the provisions of the SCRA arises.

Section 302 would allow the Attorney General to issue civil investigative demands in investigations under the SCRA. It does not include the authority to compel oral testimony or sworn answers to interrogatories.

Section 303 would increase the civil penalties for a first violation of SCRA from \$55,000 to \$110,000 and for second or subsequent violations from \$110,000 to \$220,000.

Informally, the Legal Assistance to Military Personnel (LAMP) Committee of the American Bar Association supports this legislation as do recognized reserve component legal experts.

MOAA strongly supports the Servicemembers Civil Relief Act (SCRA) Enhancement and Improvement Act of 2013.

S. XXXX, the Servicemember Housing Protection Act of 2013 (Sen. Jack Reed, D-RI)

The Servicemember Housing Protection Act would help military families in three ways: first, by permitting a servicemember to terminate a lease agreement under the SCRA in situations where government housing suddenly opens up. Several states already have similar laws, and this opportunity should be extended to servicemembers serving at any of our military bases.

Second, the legislation enables military families to gain SCRA protections with a letter from a commanding officer. There have been many cases in recent years where servicemembers are activated prior to the issuance of formal orders. The bill would apply the broader definition of military orders, allowing for commanding officer letters in all sections of the SCRA in which a servicemember is required to submit copies of military orders. This change will make it easier for servicemembers to more quickly get their affairs in order prior to deployment.

Third, legislation would extend the twelve-month window of foreclosure protections to surviving spouses. After suffering the unspeakable loss of a military husband or wife in service to the nation, a surviving spouse should not have the additional burden of dealing with the potential of a mortgage foreclosure.

MOAA strongly supports the Servicemember Housing Protection Act of 2013 to expand protections under the SCRA for military families and surviving spouses.

S. XXXX, Improving Quality of Care Within the Department of VA Act of 2013 (Sen. Burr, R-NC)

The Improving Quality of Care Within the Department of VA Act of 2013 addresses two distinctly separate issues. The bill would require the DVA to ensure its policies regarding the reporting of infectious diseases be current and consistent with State laws. This makes good sense.

The second section of the bill requires that an outside independent assessment of the 21 VISNs and medical centers be conducted to study, evaluate and recommend organizational structures of medical centers; identify which key leadership positions in Medical Centers and VISNs should have succession plans and how to implement such plans.

The quest for standardization within the VA remains elusive. VISNs are considered the communication channel for centrally developed guidance to be sent out to the regions for local implementation. Directives from VA Central Office can take significant periods of time to be reviewed by local VA facilities and then may not be implemented as originally intended. We support any efforts to better streamline and standardize the VISN organizational structure.

MOAA supports the Improving Quality of Care within the Department of VA Act of 2013

S. XXXX Veterans Health Care Eligibility Expansion and Enhancement Act of 2013 (Sen. Sanders, I-VT)

Section 3 of The Veterans Health Care Eligibility Expansion and Enhancement Act of 2013 would expand access to VA health care for service-disabled, non-compensable veterans with no health insurance. Under the Affordable Care Act, VA health care is qualifying care for

purposes of meeting the requirements of the law. This provision would enable this group of veterans to meet the ACA requirement via enrollment in the VA health system. ***MOAA supports the provision that expands access to VA care for certain uninsured veterans.***

Section 4 of the bill would extend the period of time combat veterans can enroll in VA health care post-deployment from five years to ten years. ***MOAA strongly supports the provision that extends the VA health care enrollment period from 5 years to 10 years for combat veterans after returning from deployment.***

Section 6 of the bill concerns VA Medicare Reimbursement

Among federal agencies, only the Indian Health Service is permitted to accept Medicare reimbursement in its facilities. Medicare eligible veterans are seen in the VA for service connected conditions but often rely on outside medical care for routine services provided under Medicare, effectively splintering the continuity of health care.

Now is an opportune time to take a fresh look at allowing our enrolled, non-service connected, Medicare eligible veterans to utilize the VA for all of their health care. More than 40% of enrolled veterans are eligible for Medicare.

In effect, rules excluding use of Medicare funds in VA facilities result in the government paying redundant costs for procedures and tests performed by Medicare providers and then, again, in VA facilities. That alone should be reason enough to consider using the VA as a Medicare provider.

If the VA can deliver a Medicare-sponsored benefit (for non-service connected care) more efficiently than Medicare providers, while eliminating duplicative medical procedures, all stakeholders and especially veterans are likely to benefit.

Early in the last decade in separate Congressional sessions, the Senate and House passed legislation authorizing a test of VA Medicare Reimbursement to validate the theory that the government, taxpayers and veterans would benefit under VA Medicare reimbursement. Limited analytical studies also have been conducted on this issue and they suggest potentially favorable outcomes from VA Medicare Reimbursement.

MOAA continues to support the concept that Medicare-eligible veterans should be able to obtain their earned Medicare-sponsored services for non-service-connected care in VA health care facilities.

Since the Senate Finance Committee has primary jurisdiction over Medicare and Medicaid services, and due to earlier objections to Medicare “subvention” in VA facilities, we would respectfully suggest that the Committee consider sponsoring a formal test or pilot program of VA Medicare Reimbursement if outright enactment of the proposal is seen as infeasible at this time.

MOAA supports the establishment of a Medicare VA reimbursement program for non-service connected care of enrolled Medicare-eligible veterans; we suggest that a formal pilot program may be the gateway to gain broad Congressional support for the concept.

S. XXXX, Mental Health Support for Veteran Families and Caregivers Act of 2013
(Sen. Sanders, I-VT)

S.XXXX would direct the VA to provide support for family members and caregivers of veterans with mental health disorders by establishing mental health education programs and group peer support programs. Both programs would be implemented via a contract with a non-profit entity with experience in mental health education and outreach. The language indicates that instructors for the group peer support meetings would be selected from family members or caregivers who had completed the initial training. It is not clear if these would be paid positions nor what alternative would be used if none of the participants wished to take on the responsibility of leading peer support groups.

MOAA is supportive of increasing support and education of caregivers who are coping everyday with the stresses associated with caring for our veterans with mental health (MH) concerns. Peer support is a proven concept within the veteran population and would provide our veteran families with a knowledgeable and safe place to learn, understand and share how best to help their veteran suffering with mental health problems. With the significant MH capabilities the VHA has developed over the past several years, it may make sense to consider utilizing internal assets to develop and implement these programs rather than contracting out to organizations who do not have the history and experience of veteran culture and healthcare.

MOAA supports the Veteran Families and Caregivers Act of 2013

S. XXXX Enhanced Dental Care for Veterans Act (Sen. Sanders, I-VT)

This bill would create a three year pilot program providing dental care and treatment to enrolled veterans who are not eligible for dental care under current authorities. The pilot would be implemented in 16 VA locations, including rural areas and services would be

consistent with the dental care provided to veterans with service connected disabilities rated at 100% disabled. In addition to VA dental facilities, the services may be provided via contract by private providers in the community. The pilot program would also include dental health education be provided to the enrolled veteran via printed and electronic materials.

MOAA supports the Enhanced Dental Care for Veterans Act of 2013.

S. XXXX Survivors of Mil Sexual Assault and Domestic Abuse Act of 2013 (Sen. Sanders, I-VT).

This bill would authorize the DVA to provide care and treatment for victims of sexual assault or domestic violence who are members of the Armed Forces and requires the VA to screen veterans for sexual trauma and domestic abuse.

MOAA strongly supports this legislation but requests clarification of the language that describes the Armed Forces' eligible population. Sec 2. Line 15 notes that counseling and care may be provided to "members of the Armed Forces (including members of the National Guard and Reserves) **on active duty**..." We would request that language be included that clarifies that members of the Reserve Components who experienced sexual assault or domestic violence while on active duty remain eligible to receive treatment from the DVA after returning to drilling reserve status.

MOAA supports the Survivors of Military Sexual Assault and Domestic Abuse Act of 2013.



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

Bob Norton joined the MOAA Government Relations team in 1997, specializing in National Guard / Reserve, veterans' benefits and VA health care issues. He co-chairs The Military Coalition's (TMC) Veterans' Committee and is MOAA's representative to TMC's Guard and Reserve Committee. In 2000, Bob helped found the Partnership for Veterans Education, a consortium of TMC, higher education associations, and other veterans groups that advocates for the GI Bill. Bob served on the statutory Veterans Advisory Committee on Education from 2004-2008.

Bob entered the Army in 1966 and was commissioned a second lieutenant of infantry in August 1967. He served in South Vietnam (1968-1969) as a civil affairs platoon leader. He transferred to the U.S. Army Reserve in 1969.

Colonel Norton volunteered for full-time active duty in 1978. He served in various assignments on the Army Staff and the office of the Secretary of the Army specializing in Reserve manpower and personnel policy matters.

Bob served two tours in the Office of the Assistant Secretary of Defense for Reserve Affairs, first as a personnel policy officer (1982-1985) and then as the Senior Military Assistant to the Assistant Secretary (1989-1994). Reserve Affairs oversaw the call-up of more than 250,000 members of the Guard / Reserve in the first Gulf War. Colonel Norton retired in 1995 and joined the MOAA Government Relations staff in 1997.

Colonel Norton holds a B.A. from Niagara University and an M.S.Ed. from Canisius College. He is a graduate of the U.S. Army Command and General Staff College, the Army War College, and the Harvard Kennedy School of Government senior officials in national security course.

His military awards include the Legion of Merit, Defense Superior Service Medal, Bronze Star, Vietnam Service Medal, and the Armed Forces Reserve Medal.