

PROTECTING BENEFITS FOR ALL SERVICEMEMBERS

HEARING

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PROTECTING BENEFITS FOR ALL SERVICEMEMBERS

Wednesday October 23, 2019

COMMITTEE ON VETERANS' AFFAIRS,
U. S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:01 a.m., in Room 210, House Visitors Center, Hon. Mike Levin [Chairman of the Subcommittee] presiding.

Present: Representatives Levin, Brindisi, Pappas, Lee, Cunningham, and Banks.

OPENING STATEMENT OF MIKE LEVIN, CHAIRMAN

Mr. LEVIN. Good morning. I call this hearing to order.

I want to thank everyone for joining us today in the Economic Opportunity Subcommittee as we examine benefit eligibility for National Guard and Reserve servicemembers.

Ranking Member Bilirakis is sorry he can't make it to today's important hearing due to a family emergency, but he will be submitting his questions for the record, and I obviously have my thoughts with Gus and with his family.

Over the last several years, the Reserve Components have shifted from a strategic Reserve to an operational Reserve. This means they are no longer a, quote, "Break glass in case of war force," but are now continuously utilized here at home and around the globe. With this shift, it is time that we reexamine our policies and benefits for Reserve Component servicemembers.

The decisions on how to utilize, structure, and determine the size of the Armed Forces and specifically the Reserve components happen outside our Subcommittee and the Veterans' Affairs Committee as a whole. However, our Subcommittee must understand these changes and keep pace with regards to the benefits eligibility, transition process, and employment prospects of servicemembers.

With the increased use of National Guard and Reserves, we are seeing more instances of servicemembers from different components serving next to each other, doing the same or similar jobs, but receiving different pay and benefits. It is clearly not fair.

The Committee began to address this issue in the Forever GI Bill by expanding GI Bill eligibility to servicemembers deployed on 12304b orders, but that addressed only part of the complex duty status problem.

We are seeing the National Guard and Reserves being required to maintain higher readiness standards to fulfill deployments and contingency planning requirements. This means the servicemember

must spend more time away from home and work than the traditional one weekend a month and two weeks in the summer. This also means more time operating heavy machinery, driving on convoys, maintaining equipment, and conducting field maneuvers, all of which carry potential for injury or death, and this means more frequent transitions between military and civilian life.

We as a Congress and a Nation have decided to defend our Nation through an all-volunteer force. We have also decided to maintain the same active duty and strength level while increasing requirements, meaning that the services are stretched thinner and that the Department of Defense must utilize the Reserve components to fill the gaps much more frequently.

As we continue to utilize the operational Reserves, we must ask if we have fundamentally changed our unspoken agreement with servicemembers, their families, and their employers. Are servicemembers being fairly compensated or are they losing income while attending drill? Will families tolerate their servicemember's more frequent absences, the increased risks they face, and the constant interruption of their day-to-day lives? And will employers continue to hire Reservists and National Guardsmen and Women if they are gone much more than expected?

We don't know the answer to these questions yet, but the Reserve components may already be feeling the impacts.

We have heard our senior enlisted leaders say that the best and worst recruiters are veterans and servicemembers talking to their family and friends about their experience in the military. Servicemembers will vote with their feet and will do what is best for their families.

The Committee heard from Texas National Guard leadership this week that the number one concern raised by their servicemembers was benefits disparity and why they did not receive the same pay as the active component servicemembers they work with and next to.

If Congress and the Nation are not providing equitable pay and benefits, and ensuring that Reserve Component servicemembers can maintain employment, this will impact our all-volunteer force. We can either pay for equitable benefits now or pay to drastically expand the active component in the near future, or, far worse, suffer on the battlefield later on.

The Committee is here today to ask three key questions. First, do we need a specific transition assistance program for Reserve Component servicemembers that is tailored to their monthly transitions between civilian and military life. Second, do we need to update benefits for Reservists and National Guardsmen and Women so that every day in uniform counts, no matter their duty status. Finally, third, how do we incentive employers to hire and promote Reserve Component servicemembers into fulfilling careers while strengthening USERRA protections, cracking down on bad actors, and identifying unemployed or underemployed servicemembers.

I would like to note that while we may ask some pointed questions to the National Guard Bureau and Army Reserve's representatives here with us today, they are executing the laws Congress has passed. The fixes to these issues start here in Congress, though I expect the Department of Defense and service branches to speak

frankly about problems, be proactive in identifying issues, and stand ready to make changes. It would be a serious misstep to downplay the impact of the operational Reserve concept on servicemembers in an effort to protect the organization.

Welcome, Mr. Banks. How are you? Did you have an opening statement or—

Mr. BANKS. No.

Mr. LEVIN. Okay, great.

Well, with that, I would like to turn to our panelists, and I would like to thank you all very much for being with us this morning.

Joining us on the panel we have Major General Dawne Deskins, Director of Manpower and Personnel with the National Guard Bureau; Major General Michael C. O'Guinn, Deputy Chief of the U.S. Army Reserves; Daniel Elkins, Legislative Director with the Enlisted Association of the National Guard of the United States; J. Roy Robinson, President of the National Guard Association of the United States; and Susan Lukas, Director of Legislation and Military Policy with the Reserve Officer Association of the United States.

Thank you all very much for joining us. As you know, you will have 5 minutes for your oral statement, but your full written statement will be added to the record.

Major General Deskins, you are now recognized for 5 minutes.

STATEMENT OF MAJOR GENERAL DAWNE DESKINS

General DESKINS. Chairman Levin and distinguished Members of the Subcommittee, I appreciate the opportunity to testify on National Guard and Veterans Affairs matters. On behalf of the Chief, National Guard Bureau, General Joseph Lengyel, thank you for your support of and commitment to our National Guard Soldiers, Airmen, their families, and supporting employers.

The National Guard consists of nearly 450,000 citizen Soldiers and Airmen of the Army and Air National Guard. They represent the finest National Guard force in our Nation's history, and I am honored to be here today to advocate for them along with their families, their communities, and their employers who support them.

The National Guard of today is not the National Guard of yesterday. Today's National Guard, in fact today's Reserve Component, Soldiers, Airmen, Sailors, and Marines, are an integral part of this Nation's military capability. The Department of Defense cannot meet the objectives outlined in the national defense strategy without a robust National Guard and Reserve.

Unique to the National Guard, however, is our dual capability to be used in a Federal or state status. In addition to providing forces to combatant commanders for the overseas war fight, the National Guard stands ready to assist local and state authorities in response to natural and other disasters at home. Tens of thousands of National Guard Soldiers and Airmen are on duty at home and overseas on any given day in support of our national security.

The foundation of our National Guard's strength and a key to our readiness is our people, the team of Soldiers and Airmen we build through recruiting and retention programs; men and women who

join our ranks and continue to serve out of patriotism, a sense of duty, and love of country and community.

The benefits and entitlements provided to them as a result of their service are critical to retaining this all-volunteer fighting force. The men and women who serve in the National Guard are always ready to meet America's needs. Knowing that their employers and families will have the necessary support they need will allow them to focus on their training to build a more ready and lethal force.

Legislation such as USERRA and the Department of Defense's Yellow Ribbon Reintegration Program not only incentivize Guard Members' continued service, but provide peace of mind to Soldiers, Airmen, and their families.

To the Members of this Subcommittee, thank you for your time today to discuss these important topics, and I look forward to your questions.

[THE PREPARED STATEMENT OF MAJOR GENERAL DAWNE DESKINS APPEARS IN THE APPENDIX]

Mr. LEVIN. Thank you, Major General Deskins.

Major General O'Guinn, you are now recognized for 5 minutes.

STATEMENT OF MAJOR GENERAL MICHAEL C. O'GUINN

General O'GUINN. Good morning and thank you, Chairman Levin and distinguished Members of this Subcommittee. It is a pleasure to be here today, and I would like to submit my written statement for the record at this time.

On behalf of America's Army Reserve, thank you for the opportunity to be here today, and for your support of our soldiers, civilian employees, families, and employers.

As stated in the National Military Strategy, we are emerging from a period of strategic atrophy, aware that our competitive military advantage has been eroding. We are facing increased global disorder, characterized by a decline in a longstanding, rules-based international order, thereby creating a security environment more complex and volatile than any we have experienced in recent memory.

Interstate strategic competition, not terrorism, is now the primary concern in U.S. national security. This strategic competition is driving the Army Reserve to a new state of operational readiness, improving the posture and capabilities of our forces to respond quickly to evolving threats from multiple sources.

As the sole dedicated Federal Reserve of the Army, Army Veterans Soldiers and units from across the Nation must be able to quickly mobilize, deploy, fight, and win as part of the total force anywhere in the world.

The Army Reserve comprises nearly 20 percent of the Army's organized units, half its total maneuver support and sustainment capabilities, and a quarter of its mobilization base-expansion capacity. With more than 200,000 Soldiers and civilian employees, and 2,000 units spread across 20 time zones, America's Army Reserve is positioned and ready to support the war fighter anywhere in the world.

Meeting the challenge of fielding a robust, capable, ready, and lethal array of forces from the ranks of a part-time force is no small task, particularly in today's evolving and increasingly dynamic global security environment. But that part-time force is also our strength, for it encompasses a new generation of Army Soldiers and leaders, highly skilled and educated in 148 career fields that correspond to the capabilities our forces require to conduct, sustain, and prevail in combat operations.

As Lieutenant General Lucky, the Chief of the United States Army Reserve, reminds our force daily, our challenge remains straightforward and dynamic: this team needs to be ready enough to be relevant, but not so ready that our Soldiers cannot maintain good, meaningful civilian jobs and healthy, sustaining family lives. This challenge is exacerbated by the simple fact we must recruit and retain our Soldiers where our Soldiers live and work, and anticipate emerging demographics by moving force structure to not only where the talent resides today, but where we will be tomorrow. This process demands agility, synchronization, and integrated planning.

Recruiting and retaining the Nation's finest also requires adequate compensation. Soldiers from all three components stand shoulder-to-shoulder with the Joint Force, Allies, and partners to protect our interests and uphold our shared values. Therefore, troops serving side-by-side and conducting the same mission should receive equal pay and benefits, regardless of the uniform they wear or the component they serve. Parity of benefits are an important part of overall readiness and morale.

We appreciate Congress' continued support, engagement, and counsel. With your help, we will continue to provide the ready capabilities the people of the United States expect and deserve, and will remain postured to meet modern day challenges and future threats. In these dynamic and challenging times, we stand ready to continue to build the most capable, combat-ready, and lethal Federal Reserve in the history of the Nation.

Thank you, and I look forward to your questions.

[THE PREPARED STATEMENT OF MAJOR GENERAL MICHAEL C. O'GUINN APPEARS IN THE APPENDIX]

Mr. LEVIN. Thank you, Major General O'Guinn.

Mr. Elkins, you are now recognized for 5 minutes.

STATEMENT OF DANIEL ELKINS

Mr. ELKINS. Chairman Levin, Members of the Committee, thank you for hosting this hearing today and for honoring all members of the Reserve Component. The Enlisted Association of the National Guard of the United States is a non-profit organization that is dedicated to promoting the status, welfare, and professionalism of the enlisted members of the National Guard. And our association has long believed the Members of this Committee have been instrumental in protecting, supporting, and honoring the service and sacrifice of the National Guard by ensuring they receive the benefits they have earned and that these benefits remain protected.

Since the inception of the Servicemember Readjustment Act in 1944, which has become known as the first GI Bill, education and

health benefits have made it possible for generation of veterans to succeed in growing their careers, providing for their families, and has allowed them to continue to give back to their communities.

As education and health benefits have evolved over the years, so too has the role of the National Guard within the uniform service. We are now at the fourth iteration of the National Guard. Starting with its historical inception of citizen soldiers, we evolved from an all-volunteer force in the 1970s, and further integrated with the active component, becoming a Ready Reserve in the 1980s. After September 11th, the National Guard again changed to become an Operational Reserve, with larger and more frequent deployments.

Today, with Guard 4.0, individual Soldier readiness has become paramount with increased obligations for the National Guard servicemembers to maintain their health, knowledge, and training at a pace rivaling active duty components.

As a result, members of the National Guard have been protecting our Nation and our interests equally with active component, and often at a significantly less cost to this country. However, this comes with a significant high price for our warfighters in the communities that support them. That price has been paid in the form of increased difficulty accruing benefits, difficulty in accessing mental health protections, and difficulty in navigating the bureaucracy of the Department of Veterans Affairs. This includes the weakening of USERRA protections to secure their livelihoods and not qualifying for SCRA protections when an emergency strikes, and we are called upon to serve.

Today, we are here to highlight an idea that we wholeheartedly believe in, that is, every day in uniform counts. Regardless of what orders you are on, regardless of whether you are drilling or training, or serving on the border, if you are serving in uniform, you should be eligible in accruing benefits just like active duty counterparts.

Unfortunately, we hear from our members that parity issues are drastically impacting the force and, as we speak, thousands of National Guard servicemembers are fulfilling their duties in responding to a national emergency declared by President Trump. These men and women serving on the border are responding to a Federal call to action made specifically by the Commander in Chief, and still the mass majority of these servicemembers are unable to earn the same Federal benefits as their active duty counterparts, even though they are performing similar duties in similar locations.

Servicemembers from various states around the country, and possibly the districts you represent, are working side-by-side to fulfill the same Federal mission, but are being treated differently than their brothers and sisters on active duty. These men and women are serving our country, but current loopholes and inequities keep our country from serving them.

Under the current law, many will not achieve veteran status, few will earn GI Bill eligibility they deserve, and some will have no access to VA care. The definition and status of a veteran regardless of what type of orders we serve under must be addressed, especially as we deal with the epidemic of suicide amongst our servicemembers. Members of the Committee, today 20 veterans will commit suicide, 5 out of 20 will be from Reserve Component, and

three of those five will have never been placed on active duty orders, but all have served. All have trained and every one of them wore the uniform with pride, and yet they have no direct access to mental health care at the VA. Why? That is because they have been denied these benefits from the start and something has to change. We all wear the uniform with pride; every day in uniform counts.

I look forward to answering your questions.

[THE PREPARED STATEMENT OF DANIEL ELKINS APPEARS IN THE APPENDIX]

Mr. LEVIN. Thank you, Mr. Elkins.

Mr. Robinson, you are now recognized for 5 minutes.p

STATEMENT OF J. ROY ROBINSON

Mr. ROBINSON. Thank you, Chairman Levin and other distinguished Members of the Subcommittee. On behalf of almost 45,000 members of the National Guard Association of the United States, and the nearly 450,000 Soldiers and Airmen of the National Guard, we greatly appreciate this opportunity to share with you our thoughts on today's hearing topics for the record. We also thank you for the tireless oversight you have provided to ensure accountability and improve our Nation's services to veterans and their families.

In my testimony, I would like to focus on three specific issues impacting Guardsmen that fall under the jurisdiction of this Committee. These issues are expanding TRICARE to cover all servicemembers in all statuses, streamlining recordkeeping of service across the total force, and highlighting legislative initiatives as readiness requirements and operational tempo continue to increase.

As the National Guard remains an integral part of our Nation's defense, both at home and abroad, increased training and readiness requirements, compounded with more frequent deployments, has strained the traditional citizen soldier construct, placing stressors on both the Guardsmen and their employers.

While I cannot anticipate future operational demands, what is clearly true is that the era of one weekend a month and two weeks a year is over. Our members are serving more days throughout the year and often completing military tasks on civilian time, all while undertaking additional military, administrative, and training duties due to insufficient levels of full-time support personnel.

As we continue to increase operational demands on our Soldiers and Airmen, their employers are feeling the effects of their extended absence. In the wake of this new reality, we ask that the Committee supports continued efforts to assist Reserve Component servicemembers and their employers.

One major effort I would like to discuss with the Committee today is to alleviate some of the pressures of the idea of providing zero cost TRICARE health coverage to National Guard and Reserve members. While this is not an effort that will be concluded this year, I believe very strongly that the time is now to discuss if an Operational Reserve is better served through ensuring guaranteed medical coverage in lieu of the current disjointed system of third party health contractors and periodic health assessments.

The benefits of zero-cost TRICARE coverage extend beyond medical readiness and well-being for Reserve Component military families. TRICARE, one of our top retention policies, will help us keep a manned and ready force, in addition to building medical readiness today. Providing preventive care throughout our servicemembers' careers will likely reduce medical expenditures when they transition from drilling Guardsman to veteran. Further, this will become a significant employer benefit when a CEO or hiring manager knows that this servicemember won't require health insurance coverage.

As we ask more and more of National Guard and Reserve units in peacetime training, I worry that companies will start to choose equally qualified non-military candidates over our servicemembers simply because they are concerned that the Soldier or Airman will be away too often. We must find a way to better incentive these companies.

Unemployment and underemployment also continues to be a concern for our members. We ask for your continued support in passing critical legislation creating gateways and pathways to steady employment for Guardsmen. We support Congressmen Ryan and Palazzo's legislation, H.R. 801, the Reserve Component Employers Incentive Compensation Relief Act of 2019, which grants tax credits to employers who employ members of the National Guard and Reserve. Legislation like this is critical to incentive National Guard employment as we continue to demand more training time of our citizen soldiers.

A significant concern across the total force is easing burdensome bureaucracy, which limits the ability for our servicemembers to transfer among the different components. Creating hurdles to the continuum of service is a detriment to those currently serving and creates a significant hurdle in retaining servicemembers as individual frustration builds.

One major concern is with Certificate of Active Service, the DD-214. Currently, on active duty service over 90 days is captured on this critical document of final service. If a Guardsman serves, but never goes on active duty, they currently don't receive a DD-214, which is generally seen as the gold standard of record of military service. Additionally, any active service under 90 days, which is quite common, will never be captured in cumulative data on the record. The current practices place the record-keeping burden on the veteran, as they have to maintain years of documents rather than having a cumulative document similar to their active duty counterparts. Streamlining this process will benefit the servicemember as well as the VA, as it will reduce confusion over what is a valid document. NGAUS firmly believes there needs to be one Total Force record of military service which includes Reserve Component duty.

Thank you very much for your attention.

[THE PREPARED STATEMENT OF J. ROY ROBINSON APPEARS IN THE APPENDIX]

Mr. LEVIN. Thank you.

Ms. Lukas, you are now recognized for 5 minutes.

STATEMENT OF SUSAN LUKAS

Ms. LUKAS. Chairman Levin and Members of the Committee, the states represented on this Committee have a total over 400,000 Guard and Reserve in participating and retired categories. There are actually many more in your states, but they are not in DoD categories that we could get numbers from.

ROA, who represents these members, is the only national military organization that exclusively supports the Reserve and National Guard. We appreciate the opportunity to testify to you today on these issues, because that is actually something that doesn't often happen for us.

Our charter is a bit different than other associations in that our charter is to support national strategy with the Reserve Component members. So when we look at benefits and parity, we tend to look at it from the perspective of supporting, recruiting, and retention.

Too often the Reserve Component is treated as an afterthought, despite its success in our wars and being responsible for up to 100 percent of certain mission areas in our military. This is why we began our written testimony on how the RC provides both strategic and operational support.

The RC is quickly approaching the 1 million mark of servicemembers who have been activated since 2001. In 2014, the RC provided 17.3 million man days per year. As part of that duty, employment friction and unemployment problems today will increasingly plague Reserve servicemembers as we continue to rely on their operational Reserve support. We are seeing evidence of support for Reserve services eroding among employers who are weary of reported deployments. This is the reason that we also support tax credits. It is not just to incentivize them, but it also helps to offset some of the costs that they absorb when our members go through either overtime or having to do temporary employment, which cannot always be built into their budgets.

We know from exist surveys that civilian employment problems can cause our servicemembers to leave the Reserve. This loss of skilled and experienced members erodes retention and readiness. Unlike those in the Active Component, RC members might use VA employment assistance while in service to support a successful career and not just on separation. I think that is really what defines the difference between a Reserve Component veteran and an Active Component veteran, we really will be using VA services throughout our participating career.

A change in Federal hiring preference for veterans to qualify with 180 cumulative days versus 180 consecutive days for Federal employment veteran preference would help. Previously, the Committee had tried to carry that provision through; it didn't make it through, so we are hoping that you will take that up again, because as our suicide rate has continued and has not abated, one of the things that we know is that employment and financial stressors contribute to that suicide. Plus, if you look at the number of vacancies within the VA, it is a perfect fit for the Reserve Component to be able to qualify for those positions.

Another change is, like we talked before, is we need the 214—not a like form, but the 214, because whenever our members go to VA to get services, the issue of a 214 or a lack of a comprehensive

214 always seems to cause problems in VHA, VBA, and NCA. And they have actually come—our members have come to us and told us specifically how that has happened.

We also have differences with how our veterans or our servicemembers use the GI Bill. One of the things that we know a lot of discussion has been on is 90–10. And we are not against the 90–10 rule per se, what we don't want to see is any unintended consequences for those public schools or for-profit schools that offer certificates and accreditation, because with our members having civilian careers, they don't always just need to go for a degree, they need to, you know, kind of bump up what they have. So we are looking at 90–10 from that perspective.

Also, we know that there is legislation that is being proposed called the Post-9/11 Veteran Business Acceleration Act, and that is going to look at using the GI Bill a little different for entrepreneurialship, which is a good fit with our members too, because they have the civilian experience to have successful businesses.

Finally, we did include in our testimony some information about VHA, which we know doesn't come under you, but what we were trying to say is, when it looks at the Guard and Reserve issue as a veteran, we really need a task force or something with DoD and VA to come together to look across the whole realm of VA to look at how services are being met with them, and we would enjoy that opportunity.

[THE PREPARED STATEMENT OF SUSAN LUKAS APPEARS IN THE APPENDIX]

Mr. LEVIN. Thank you, Ms. Lukas, and thanks to all of you.

With that, I would like to recognize myself for 5 minutes to begin the question portion of the hearing. And I just wanted to thank again many of you for your service and for helping to inform this important discussion today.

Committee staff had the opportunity recently to meet with the Texas National Guard, I believe it was on Monday, and one of the things that came from that was that, on average, Texas Army National Guard, traditional M-day Soldiers, did more than 70 days of duty in fiscal year 2019.

General Deskins and General O'Guinn, on average, how many days do M-Day Army, Air National Guard and Army Reserve servicemembers spend in uniform per fiscal year, and are there commands or units that are outliers, and are there differences for units under heightened readiness requirements.

General DESKINS. For the National Guard, as you pointed out, as we have shifted into an operational force, the number of days our Guardsmen and Women are serving in uniform has definitely increased. In the Army National Guard, nearly a third of the force is serving more than 50 days in uniform per year, so that is approximately 150,000. On average, for an Airman in the Guard wearing the uniform, they are doing 7 more days above the traditional 39 that we would think of in a normal Guard duty construct.

And as far as the question on outliers, I would say units preparing for major training exercises or mobilizations will typically conduct additional training, so they will do more training prior to

the event, and then of course unplanned domestic and emergency responses will increase the number of days in uniform.

Mr. LEVIN. Thank you.

General O'Guinn?

General O'GUINN. Chairman, thank you. The traditional Army Reserve Soldier will do 12 weekends throughout the year, one each month. So that is, you know, 24 or 48 unit assembly training areas there. We also do a minimum of 14 annual training days a year to prepare for large-scale contingencies and deployment. So, on average, 60 days right there, just the basic. Most of our units are doing well above that. I think we calculate about 19 and a half days versus the 14 days for the annual training, but there are clearly some outliers.

We have about a third of our force that has to go out the door in the first 100 days of a large-scale operation, those units require additional training days to prepare them. Clearly, it is our duty to prepare soldiers before we send them in harm's way. We have to make sure they are trained, ready, equipped before we can do that, it is our obligation. So they will spend a few more days in training to prepare for that.

However, where we find units that have to do that, what we don't want to do is continue to send the same units to the same extended training year after year, burn the soldiers out, put more burden on the family, put more burden on the employers.

We do find outliers. And so General Lucky, as the Chief of the Army Reserve, as he goes around and visits soldiers, visits training events, where he sees those pockets of people that are doing probably too much, because we have asked them to, we have opportunities to switch out units in future years to prepare them.

Thank you.

Mr. LEVIN. Follow-up to that. Can you tell us how many Guard and Army Reserve servicemembers have passed away while in uniform over the past 3 years? And, if possible, can you break down those numbers by combat, suicide, training, and other causes?

General DESKINS. For the National Guard, we looked back 5 years, so I will have to take it for the record to get just the 3-year look.

Mr. LEVIN. Sure.

General DESKINS. But if we look at a 5-year look, in the past 5 years the total number of servicemembers deceased for all causes on or off duty for the Army is 1157, 1157, and Air is 333. And we will need to get you the breakout of that, because that does include all causes, which includes natural causes.

Mr. LEVIN. Okay.

General O'GUINN. Sir, in the past 5 years, the Army Reserve had a total of 779 reported deaths. The breakdown is 135 of those were on active duty at the time of the death—I am not sure how many of those were combat-related versus just occurred on active duty—and 664 were not on an active duty status. So our average death rate is 27 per active duty and 132 for not on active duty.

I will tell you, part of this is the suicide prevention. We have seen this year, this calendar year in fiscal year 2019, we are 11 under. So last year at this time we had 40 Army Reserve Soldiers commit suicide, this year we are at 29. Clearly, every single suicide

is one too many, but whatever programs are out there this year tend to be working, but that doesn't mean we can take our foot off the gas. We have got to continue to press this, so we don't lose any more soldiers.

Mr. LEVIN. A couple more questions on this line and then I will turn to some of my colleagues. Have you seen an increase in these numbers as training days has increased; in other words, have you seen any correlation?

General DESKINS. For the National Guard, we can't say that we have seen any direct correlation that would require further study.

Mr. LEVIN. Okay. Thank you.

General O'GUINN. Sir, we have not seen an increase with the increased training demands. In fact, our accident rate over the last 3 years has decreased, both, you know, in Class A, B, and C training accidents.

General Lucky has—this is about standards and discipline. We go to a field exercise, making sure that leaders at echelon are watching their troops, making sure they are following the proper procedures, safety is incorporated at every exercise, and just watching out for soldiers to ensure they are properly trained, equipped, and doing the job right. So we have seen that reduce accidents overall and reduce injuries.

Mr. LEVIN. I appreciate that very much. I think there is a concern that, well, you have increased operational tempo and training days, that that could also lead to increased injuries or even fatalities. And obviously we want to make sure that, to the extent that that is happening, we understand it and address it. So I very much appreciate that.

And I want to turn to a couple of my colleagues, and I think we will have time for a few more questions, a second round of questions.

So, with that, I would like to turn to Mr. Banks for 5 minutes.

Mr. BANKS. Thank you, Mr. Chairman.

The Committee recently heard from a Texas Guardsman who was told that his time serving in Operation Guardian Support on our Southern border would not count toward his Post-9/11 GI Bill eligibility. Mr. Elkins, have you heard of this issue or from other Guardsmen who have situations like that?

Mr. ELKINS. Congressman, thank you for the question. Yes, I have, and I will share a personal experience with being on a different set of orders and not accruing eligibility for benefits. As a member of the Special Forces community, I went through the Special Forces qualification course, during which the 2-year pipeline that I was a part of, because of the subset of orders that I was on, did not qualify in accruing Post-9/11 GI Bill eligibility. However, I was in the same class, wearing the same uniform, doing the same type of training with members on the active duty side, and in some cases with our PSYOPs and civil affairs counterparts, and they were accruing those benefits.

This issue of benefit parity is one that is prolific, and I personally think, as well as our association, that this needs to change in order to continue recruitment and retention, and also prevent a national security issue.

Mr. BANKS. So you would agree that the assessment by the DoD needs to make active duty orders more uniform as a means to better distribute the hard-earned benefits of our servicemembers that they are entitled to?

Mr. ELKINS. Yes. Our association is very supportive of duty status reform as it is currently underway. We do think that there are things that need to go above and beyond the efforts underway for duty status reform. For example, my colleagues to my left have spoken both about the DD-214 for all. Additionally, qualifying for benefits, it is necessary to have a DD-214, and in some cases the VA only accepts the DD-214. So that is something the duty status reform will not address.

Mr. BANKS. Ms. Lukas, there have been a lot of discussions on changing the calculation of the 90-10 rule to limit the use of GI Bill funds at for-profit schools. Do you believe such a shift in policy would give policymakers a true representation of the quality of the school, and would such a change impact a veteran's ability to choose a school that best their needs?

Ms. LUKAS. So, in looking at the 90-10 rule, what we understand is it is very similar to the 85-15 from VA and that what—or the Department is trying to—the different departments are trying to do is monitor the amount of Federal funds going to the schools and to make sure that their funds are being put to good use. We think that the 90-10 rule in that regard to a certain degree is counting the money. So, if you are going to count the money about how it is being used on the for-profit side, would you want to count it on the public side—or the—yeah, the other universities.

So what we are saying is, if you are going to monitor funds, that is right, we should monitor Federal funds and where they are going, do it across the board, but do it in conjunction with standards. And the Committee, the Full Committee here just passed a bill, which we really like, and that is where the colleges and universities now are going to be required to provide information to veterans on what their standards are.

So, for us, we see it as both things need to occur, not just one will get you where you want. You need to have, you know, that report card maintained and provided also.

Mr. BANKS. General Deskins, do you know why members of the Guard who are serving at the Southern border are not getting eligibility of the Post-9/11 GI Bill?

General DESKINS. So, yeah, thank you for that question. Having spoken to the Department, they are looking into this at this time. This was just recently brought to their attention and they are doing a quick review to look at the benefits parity and determine a resolution to that.

Mr. BANKS. Do you think this is a mistake?

General DESKINS. Well, the National Guard certain believes in benefits parity between Guard members and the active duty and that is similar where—

Mr. BANKS. But has a mistake occurred or is there a change of policy that needs to correct it?

General DESKINS. So I have not reviewed what the criteria is that the Department uses for determining whether or not a benefit

reaches parity. I can only say that I feel that members that do similar work should get the same benefits.

Mr. BANKS. Thank you. I yield back.

Mr. LEVIN. Thank you, Mr. Banks.

And I would now like to recognize Ms. Lee, if you're ready.

Ms. LEE. Sure.

Mr. LEVIN. You got it, for 5 minutes.

Ms. LEE. It is funny, I was just walking through the hallway and a reporter said, "What are you working on?" I said, "Pay parity for our servicemen and women." And they didn't want to talk to me, I don't know why.

Anyway, first of all, I just want to thank you all for being here and this is an important hearing in an ongoing important discussion about pay parity for our Reserve and Guard members. The topics of pay parity employment protections for Guard and Reserves is very important to me, as one of my own staff members and former residents of my district has seen what happens when an employer does not hold up their end of the bargain of giving our returning troops the opportunity for promotions that they may have missed out on during a combat deployment.

Imagine, you are 20 years old and you go off to Iraq to serve your country, you come back, as is often the case in Las Vegas, to a tip position at a casino. After a year of absence and although your employer has brought you back to your old job, you realize that five or six of the people you helped train in lower-skilled positions are now in a higher position and earning, get this, between 600 and \$900 a week more than you will be.

You received USERRA protection during training and during your activation briefings in post-deployment, so you bring the issue up to your employer of your promotion. And they tell you they are glad to have you back, but make no effort to promote you. You don't have the time as a 20-year-old to file a complaint, because you are now once again a full-time employee and a part-time student at the local university. So you go back to work, keep your head down, and continuing to work your old job at a lower rate than your coworkers.

This is just one story, but it is something that happens to members of the Guard and the Reserve in Las Vegas and across this country.

I also recently attended a sending-off ceremony of the Explosive Ordnance Disposal Company in my district, and I want to make sure that we are looking out for their best interests upon their return as well.

We have a responsibility to do better for our returning servicemembers and I hope this discussion will help us identify ways that we can do that.

In the story I just highlighted, my staff member did not go through the formal USERRA complaint process. I suspect this is not an uncommon occurrence.

For Mr. Robinson and Ms. Lukas, I wanted to ask you, with regard to USERRA employment protections, how often do you hear from servicemembers about filing complaints regarding promotions?

Mr. ROBINSON. So what we hear most of the time is that they don't openly discuss—the employer doesn't openly discuss the reason for it and it is very difficult for some of the younger employees to go in and state their case, so to speak. But it is prevalent, it is prevalent throughout the force and throughout the employers that we try very hard to maintain those relationships with. Specific cases come up routinely. And the ESGR representative for each of the states would be more in a position to give you actual numbers and talk to you about the way that they are trying to address some of those issues, but it is prevalent through the force.

Thank you.

Ms. LUKAS. ROA, on our website we have what is called the Law Center, and it has law reviews on USERRA and SCRA. So we are very much involved with that and most of those come from members who have come to us. So we know—I mean, right now we have six active cases on promotions. What we have found is that people are having problems in that area.

The biggest thing that I could see that they have problems with going forward is, one, they actually don't know how to go forward with it, and the amount of money it would cost to hire a lawyer to go forward with it. But the other thing is just proving that they have been discriminated in that regard when it is so obvious, but the proof of it is very difficult.

Ms. LEE. Okay. So, basically, in terms of empowering our servicemembers to file these complaints, it is really knowledge and trying to identify ways that we can provide them proof?

Ms. LUKAS. So when they come to us, what we do is—they have access to the law library, which is normally how they find us, and then what we try to do is help them, you know, kind of work through all the details to see if they have what would be a valid case. And then often we try to set them up with pro bono lawyers. If we can't find one in their area, we will go to one that they would have to pay for, but get some support.

Ms. LEE. Great. Thank you very much.

My time is up, and I yield back. Thank you.

Mr. LEVIN. Thank you.

I would now like to recognize Mr. Pappas for 5 minutes.

Mr. PAPPAS. Thank you very much, Mr. Chairman. Thank you to our panel for your service, for your advocacy for members of our Guard and Reserve, and for helping us understand this conversation around some of the disparities that they experience and that I am hopeful that we can address as a Committee and as a Congress.

One of the issues I wanted to focus on was the issue of student debt. I think about this a lot, because my state of New Hampshire has the fourth-highest average student debt load in the country, we consistently rank in the top five. As we know, the national student debt load is about \$1.5 trillion and that is shouldered in part by members of the Guard and Reserve.

Mr. Elkins, in your submitted testimony you noted that members of the Guard are not eligible for forbearance for their loans when deployed on active duty as other members of the military are. I am wondering if you can elaborate a little bit on this and talk about any potential remedies.

Mr. ELKINS. Thank you, Congressman, for that question.

So, typically or often, members of the Guard are put on various sets of orders as opposed to one continuing set of orders. So when you are one continuous set of orders without a lapse, you are able to apply for the student loan forbearance and/or provisions under SCRA. However, when there is a day or two gaps between orders, or orders are strung together and they are not continuous, you are ineligible to do so.

So our recommendation would be changing the limit of the 30 days continuous orders to something that is more in the range of 7 to 10 days, and then that way we would guarantee the members that are looking for that student loan protection would be eligible.

Mr. PAPPAS. And do you know how many members of the Guard would be impacted by a change like that?

Mr. ELKINS. Well, all members of the National Guard have to go to annual training, which is 14 days every year, so it would be my belief that all of them would be affected.

Mr. PAPPAS. Well, thank you very much for that.

In the same vein, as I understand it, the Servicemembers Civil Relief Act limits interest on student loans while a servicemember is on active duty. So to anyone on the panel, if you would like to answer it, I am just wondering if you could address that and explain how that works for members of the Reserve Component.

General O'GUINN. So I will take that on, at least try to, and ask for reinforcing fires.

So when a soldier goes on orders, they contact the agency that provides the money, whether it is a mortgage company or a credit card company, and it brings the interest rate down to 6 percent. So that is not only for the loans for that individual soldier, but also any joint account that the soldier has signed for. It does not, however, cover family members or spouse if it is a separate account.

Mr. ELKINS. To elaborate on what the General just spoke about, it has been our members' position, and they have experienced this issue over and over again, oftentimes getting orders prior to the time of mobilization can be difficult and financial institutions often use a database that the DoD provides to show if you are on active duty or not. And given the various number of duty statuses that might place you on, you know, active duty, but not active duty in the way under Title X, you are ineligible for these benefits.

Mr. PAPPAS. Thank you.

Ms. Lukas, I don't know if you had any thoughts in terms of the Reservists.

Ms. LUKAS. No. The only thing that I would say about that is, the other problem that we have on the orders is that we will have members go in and out of orders. And so, as you stop an order and then go into another order, trying to get those orders and put them together to show that it was a consecutive amount of time can cause problems with that too.

Mr. PAPPAS. Well, thank you. I am interested in exploring this issue a little bit more. I appreciate the responses here today.

And, Mr. Chairman, I will yield back.

Mr. LEVIN. Thank you, Mr. Pappas.

I do have some additional questions and, if Ms. Lee or Mr. Pappas have additional questions, they will have the opportunity

to ask them. And then we had a couple members that stepped out, if they come back, I would like to give them a chance also. But I will turn to some more questions that I have.

Committee staff recently visited one of the Army's to mobilization and demobilization sites for Reserve Component units, and they heard a significant portion of the demobilizing servicemembers were completing the Joint Knowledge online version of the Transition Assistance Program and would be rated in the lowest-risk category.

General Deskins and General O'Guinn, what percentages of your servicemembers complete the online version of TAP versus the in-person classes, and are they asked to complete these online classes while they are deployed?

General DESKINS. So I do not have available their percentages, but we can certainly get that for the record.

Mr. LEVIN. That would be great.

General DESKINS. Nor do I have the answer to the number that take TAP deployed. I do know that some of the changes that are occurring in the transition assistance have been very positive. Our Guardsmen back in 2018 said that they got too much information too soon. So the ability now to tailor when they get the information to a Guardsman who may be going back to an employer, so they don't need the standard transition assistance the way it was, you know, originally being administered, has been very beneficial to the National Guard.

So, thank you for that.

General O'GUINN. So, Mr. Chairman, I can't give exact numbers either. Having been through demobilization myself four times, I can tell you that it is a required station that you must go through in order to come back off active duty. So my guess is, it is pretty close to 100 percent, as close as they can get it.

Personally, the nice thing about it being online and having to complete that is, once I go home, I can re-access that and I know where the information is; I may not remember everything about it, but at least it is available online, and I remember that when I was trying to get out of mobile station and get back to my family.

The full-time folks in the Army Reserve are active Guard and Reserve folks, as they get ready to retire or transition, then they fall under the normal TAP program. Twenty four months out, they can start the process tailored to their specific needs, so that works out very well.

Thank you.

Mr. LEVIN. I appreciate that. For the rest of the panel, do you have any concern that asking servicemembers to do transition classes while deployed is pulling their focus from their job, particularly when we don't ask the same of active component servicemembers?

Mr. ELKINS. Yes, thank you, Chairman, for that question. I know from personal experience during my last mobilization, in the time-frame when we were packing up everything, ripping out and training the people who were coming in, our whole unit was also going through the online portion prior to the demobilization site. It is my personal opinion that this takes away from mission focus and I do not think that it is the correct way of going about things.

Mr. LEVIN. I appreciate. Anybody else have any thoughts on that?

Ms. LUKAS. I just want to say, so I am retired Air Force Reserve, I was Guard and active duty, my son is currently participating at Andrews. And so when they go through their deployments and we talk about it afterwards, he is doing like 16-plus-hour days, and it is not just him, it is everybody on that deployment. So there is just no way I could see where they could fit that in, they are lucky to be able to eat and sleep.

So, having it available after you get home, that is true, we have found that—you know, you don't know what you need until you need it, so having that available after. But to do it while you are deploying and you are trying to keep your head in the game with that, I just don't see how they could do that.

Mr. LEVIN. And do you have any concerns that Reserve Component servicemembers are less prepared for transition because they are taking the classes online as opposed to in person? Anybody?

Mr. ROBINSON. Mr. Chairman, I am not as concerned about the process itself as I am the results of the process. I don't think—me being through the mobilization system myself, what concerns me most is that some of these young Soldiers and Airmen and their families upon their return, after 6 months of coverage, they don't have medical insurance after the initial 6 months after mobilization, and some of the scars that they deal with from their time in the combat zone, some of those scars don't actually show themselves until long after that 6 months has passed. And the VA is a great organization, they are doing great things, but in some of the smaller communities throughout the country they are totally overwhelmed. And I have personally been a part of trying to get psychiatric help for young soldiers and it is a travesty.

There is no reason in the world that through that process or any other that anybody who wears the cloth of this country should ever have to worry about medical issues and the proper medical care upon their return.

So that would be my thoughts on the process. I think it is effective and I think we get what we ask for out of it. I don't think we are providing as a country what we should be providing to some of these returning heroes.

Thank you.

Mr. LEVIN. Thank you.

And I am going to ask just one more question about TAP, being mindful of time. During their visits last week, Committee staff heard various pieces of feedback, including that the current system is failing the TAP program, and commanders and Reserve Component servicemembers are not getting everything from this that they could and should. They have also heard that there is not a model for an Operational Reserve transition program, and they heard that Guard and Reserve servicemembers don't transition from military service, but rather it is part of their continuing life cycle.

I am trying to understand if the current system we have is the right fit for our Reserve Component. Guard and Reserve servicemembers are going through a transition where they come off a period of active duty orders, but they are often not transitioning completely out of the military, which is different than most Active

Component servicemembers taking TAP, including the ones that I know well in my district at Camp Pendleton.

To the entire panel, should the Guard and Reserve transition program be built into the Reserve Component and be continuous throughout a servicemember's career or not?

That is for anybody.

Ms. LUKAS. I will go ahead and take that on first, if you don't mind. So what we have—you know, it is one of those where, if you get enough, but it is not too much. So we are getting feedback that having to do transition every 180 days is overwhelming, but we also see, like General Robinson said, that the one part of—there are two parts of the transition that tend to continue after every type of mobilization or number of orders, and that is the medical issue and USERRA.

So how to find that happy medium, you are right, do they really need the whole transition that you would normally get on active duty, or can we do an Operational Reserve transition that addresses those areas that seem to be continuing problems.

Mr. LEVIN. Anybody else?

Mr. ELKINS. Our association would echo that. There needs to be a bifurcated system. For example, members of the National Guard that have jobs, know they are coming back to jobs, might not necessarily need to go through the online portion of the resume-writing requirements. And I think that it would behoove the command team at the company level to discretionarily understand the nature of the mobilization and, if the soldier can show that that is not necessary, then they could be waived out of it. However, issues like mental health care, health care in general, and/or some of these USERRA and Civil Service Member Relief Act protections, I think that that should be not waived.

Mr. LEVIN. Thank you. I appreciate that.

I would now like to recognize Ms. Lee for some additional questions.

Ms. LEE. Thank you, Chairman.

General Deskins and O'Guinn, I wanted to ask, does the National Guard or the Army Reserve collect any information on servicemember under or unemployment, economic insecurity, or financial instability, food insecurity, homelessness, or abandonment of educational programs when they return?

General DESKINS. The National Guard does not collect any of that kind of information.

General O'GUINN. The Army Reserve has no formal program to collect that as well.

Ms. LEE. Yeah, I understand that it would probably be a little much to ask the services to track that information on servicemembers, but there is a conversation that needs to be had on how involved the services should be and need to be in servicemembers' lives when they are returning home.

With the increasing in training days means more time away from work, there is concern that the Reserve Component servicemembers may be losing out on opportunities for advancement, but, more importantly, losing out on income when they are coming to drill. There are stories of employers shying away from hiring Reserve Component servicemembers because they expect

them to be gone. At the end of the day, the Guard and the Reserves do not pay the bills every day and I think they need to know how the increase in readiness requirements and training days are impacting servicemembers' ability to earn a living.

Does anyone on the panel care to comment on that?

Mr. ELKINS. The Enlisted Association of the National Guard would like to comment on that. This is something that we have heard from our members over and over again, and I will share an example.

Someone who is in current National Guard status, because of the increased readiness requirements, is now doing 4-day drills in preparation of a mobilization, and they are a journeyman and, as a result of the work, they have an apprentice that needs to work under them. And they said, we have this issue, we are seeing it across our unit with people who are in this type of work where the employer now is out two employees, not just one, because the requirements to work as an apprentice, you need to work under someone who is a licensed journeyman.

So the parity benefit issue is something that is vitally important to a recruitment and retention and, if this is not addressed, it is our concern that people will get out of the Guard.

Ms. LEE. All right.

Ms. LUKAS. I would like to also comment on all of that. So part of the problem that we have in the RC is that with the part of employment and tracking and finding employment, DoD can't actually do that. Right now, we can only voluntarily ask what their careers are and what they are doing. However, I had to speak before a National Science Academy briefing that was looking at Guard and Reserve issues a couple years ago and when I started going out to look at data, I realized that from 2001 to about 2008 DoD had done a really great job of collecting data on how operational deployments and activations were affecting the Guard and Reserve and their families. I haven't seen so much of it, but Military OneSource did just complete one on families, and in there what they did ask is they asked employment issues, how the families are being affected, how children are being affected, and what they found is those problems aren't going away and they are still out there.

So DoD may not be able to ask some of those and they may do like us where we rely on the Department of Labor, but I think what we could do is maybe survey and keep a pulse on things a little bit more, because the civilian employment does affect DoD, you know, in two ways; one, the availability to you, but one of the great things about the RC is we bring our civilian experience. That is why what is happening with DAJ and, you know, all of the losses that are occurring on the medical side are important. Part of it is occurring because they are not getting the surgery, the experience they need for when they deploy, but we do. Our medical doctors are constantly having that medical care that they are providing in the surgeries.

So what we do on the civilian side does impact on the military side. And I just want to say, when they do those surveys, which I had said earlier it is a point of contention to me, is DoD and VA need to realize they have the same customer.

Ms. LEE. Yeah.

Ms. LUKAS. And so DoD just was getting ready to do a task force on the pre—I can't even say it, one of the toxic exposures that was going on, which I thought they were doing a great job of putting it together and they put all the agencies that were part of it, VA wasn't on it. I'm like, dude, you are going to get them as a customer down the road. Let VA come before.

It is still my goal that we do away with presumptions, because we do a better job of tracking the toxic, but that is just one example of how I think DoD and VA could work closer together as they address those issues that follow from, you know, the time you are in the military until the time you go to VA for the handoff.

Ms. LEE. Yeah. As the chairwoman of the Technology Modernization Subcommittee, I couldn't agree more.

Yes, General?

General O'GUINN. Congresswoman, if I could just follow up on that briefly. So the Army Reserve, we have an office at our headquarters down at Fort Bragg who helps to link up either unemployed or underemployed soldiers with potential employers, you know, given the skill sets, what the employers are looking for, so that works out very well.

We also have an application for the iPhones and for the Samsung's and all that, a Double Eagle app. So if a soldier wants to go online, they can look there, and there is a list of employers that are looking for very particular skill sets.

So we do have ways to try to link up soldiers with employers that are looking for the soldiers and the skills, the value-based leadership they have, as well as the discipline that the soldiers bring to the civilian economy. So we do link that up; even if we don't know exactly the numbers, we do have pathways for them to get assistance.

Thank you.

General DESKINS. And if I may just briefly. Your concerns, you know, the National Guard has similar concerns, what is the impact of being an Operational Reserve on our members and on their families and on their employers.

So I will say that we have sponsored a 2-year IDA study that began in February of 2019, and the study will specifically focus on the issues and impacts pertaining to recruiting, retention, families, and employment.

Ms. LEE. Oh, great. Thank you.

Mr. ROBINSON. Very briefly, if I could. I think that we have to figure out a way to incentivize employers to attract and retain actively members serving in the National Guard and Reserve. We can do that through a couple of ways. I mean, we pay employers tax incentives for a lot of other reasons, you know, it would probably be a wise thing to look at paying employers some type of incentive for employing members of the Guard or Reserve. It is good for the country and it rewards the employer for doing the right thing.

The second part of that is—and I continue to hammer on this medical care, medical benefits for all members who wear the cloth—in that particular instance you would have a member of the National Guard or Reserve that would be hired by a private company that would come to them with a full medical package, that

in and of itself is a pretty decent financial incentive for a small company to employ those Soldiers and Airmen.

Thank you.

Ms. LEE. Good idea. Thank you very much.

I yield back.

Mr. LEVIN. Thank you, Ms. Lee. And I think that there are no further questions, so I think we can begin to bring this hearing to a close.

I really want to thank you all for being here and for sharing your testimony today. It is my great honor to get to work with you as chair of this Subcommittee, where we hopefully are bringing bipartisan solutions to the table to help our veterans. It is one of the places that I think we are most well equipped to do that and all of the House Representatives. So, again, I really appreciate you sharing your voices this morning.

I want to reiterate, if it is not completely clear, my strong belief that we have to provide Guard and Reserve members with the same benefits as active duty members when they are performing the similar or the same duties. So the bottom line is really simple: same job, same pay, same benefits. Pretty simple.

All Members are going to have 5 legislative days to revise and extend their remarks, and include additional materials. Without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:12 a.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Major General Dawne Deskins

INTRODUCTION:

Chairman Levin, Ranking Member Bilirakis, and distinguished Members of the Subcommittee, we appreciate the opportunity to testify on National Guard and Veterans Affairs matters. On behalf of the Chief, National Guard Bureau (NGB), General Joseph Lengyel, thank you for your support of and commitment to our National Guard Soldiers, Airmen, their families, and supporting employers.

The National Guard consists of the nearly 450,000 citizen Soldiers and Airmen of the Army and Air National Guard. They represent the finest National Guard force in our nation's history, and I am honored to be here today to advocate for them along with their families, their communities, and their employers who support them.

The National Guard of today is not the National Guard of yesterday. Today's National Guard, in fact today's Reserve Component Soldiers, Airmen, Sailors, and Marines, are an integral part of this Nation's military capability. The Department of Defense cannot meet the objectives outlined in the National Defense Strategy without a robust National Guard and Reserve. Unique to the National Guard, however, is our dual capability to be used in a Federal or State status. In addition to providing forces to Combatant Commanders for the overseas warfight, the National Guard stands ready to assist local and State authorities in responding to natural and other disasters at home. Tens of thousands of National Guard Soldiers and Airmen are on duty at home and overseas on any given day in support of national security.

The foundation of our National Guard's strength, and a key to our readiness, is our people: the team of Soldiers and Airmen we build through recruiting and retention programs. Men and women join our ranks and continue to serve out of patriotism, a sense of duty, and love of country and community. The benefits and entitlements provided to them as a result of their service are critical to retaining this all-volunteer fighting force.

The men and women who serve in the National Guard are always ready to meet America's needs. Knowing that their employers and families will have the necessary support they need will allow them to focus on their training to build a more ready and lethal force. Legislation such as the USERRA and the Department of Defense's Yellow Ribbon Reintegration Program not only incentivize Guard members continued service, but provide peace of mind to Soldiers, Airmen and their families.

To the members of this Subcommittee, thank you for your time today to discuss these important topics and I look forward to your questions.

Prepared Statement of Major General Michael O'Guinn

THE CHANGING NATURE OF WARFARE AND RAPID ADVANCE OF TECHNOLOGY DEMANDS increased readiness and capability to deter and, if necessary, defeat aggression. As the sole, dedicated Federal reserve of the Army, Army Reserve Soldiers, comprising ready units-of-action from across the Nation and beyond, must be able to quickly mobilize, deploy, fight and win as part of the Total Force anywhere in the world.

The Army Reserve comprises nearly twenty percent of the Army's organized units, half its total maneuver support and sustainment capabilities, and a quarter of its mobilization base-expansion capacity. With more than 200,000 Soldiers and civilian employees, and 2,000 units spread across 20 Time Zones, America's Army Reserve is poised, positioned and ready to support the warfighter anywhere on earth.

In response to the changing global security environment, the Army Reserve has pushed into a new state of operational readiness, improving the posture and capabilities of its forces to respond quickly to evolving threats from multiple sources.

Under this construct, key early-deploying force capabilities are postured to aggregate and deploy rapidly with the requisite mobility, survivability, lethality and netted mission command architecture to fight and win on the battlefield.

Meeting the challenge of fielding a sufficiently robust, capable, ready and lethal array of forces from the ranks of a part-time force is no small task, particularly in today's evolving and increasingly dynamic global security environment. But that part-time force is also our strength, for it encompasses a new generation of Army Reserve Soldiers and leaders, highly-skilled and educated in 148 career fields that correspond to the capabilities our forces require to conduct, sustain and prevail in combat operations.

As we continue to build and sustain the readiness that is our first and most important priority, we are grateful for the steadfast support of the families who sustain our Soldiers and the employers who enable them to serve the Army and the Nation.

Our challenge remains straightforward and dynamic, but also tough: this team needs to be ready enough to be relevant, but not so ready that our Soldiers cannot maintain good, meaningful civilian jobs and healthy, sustaining family lives.

This challenge is exacerbated by the simple fact that we must recruit and retain our ranks where Soldiers live and work, and anticipate emerging demographics by moving force structure to not only where talent resides today, but where it will be tomorrow. This process demands agility, synchronization and integrated planning.

Troops with the same level of experience, serving side-by-side, and conducting the same mission, should receive the same pay and benefits-regardless of the uniform they wear or component they serve. We request your support for the Administration's Reserve Duty Status authorization proposal that would streamline duty statuses and align most benefits reserve component members receive when they are conducting the same mission. Parity efforts are an important part of overall readiness and morale.

We appreciate Congress's continued support, engagement and counsel. As a result, your Army Reserve is postured to meet modern day challenges and future requirements. In these dynamic and challenging times, we will stay steady in the saddle as we continue to build the most capable, combat-ready, and lethal Federal reserve in the history of the Nation.

Prepared Statement of Daniel Elkins

The Enlisted Association of the National Guard of the United States (EANGUS) was created in 1970 by a group of senior Non-Commissioned Officers. It was formally organized and incorporated in 1972 in Jackson, Mississippi, with the goal of increasing the voice of Enlisted persons in the National Guard on Capitol Hill for Enlisted National Guard issues. Beginning with twenty-three states, EANGUS now represents all 54 states and territories, with a constituency base of over 414,000, hundreds of thousands of family members, as well as thousands of retired members.

Headquartered and with offices in Washington, D.C., EANGUS is a long-time member of The Military Coalition (TMC) and is actively engaged with the Guard/Reserve Committee, the Health Care Committee, and the Veterans Committee. EANGUS often partners with other National Guard related associations such as the National Guard Association of the United States (NGAUS), the Adjutants General Association of the United States (AGAUS) and the Reserve Officers Association (ROA) to pursue common legislative goals and outcomes.

EANGUS is a non-profit organization that is dedicated to promoting the status, welfare and professionalism of Enlisted members of the National Guard by supporting legislation that create adequate staffing, pay, benefits, entitlements, equipment and installations for the National Guard.

The legislative goals of EANGUS are published annually. The goals and objectives are established through the resolution process, with resolutions passed by association delegates at the annual conference. From these resolutions come the issues that EANGUS will pursue in Congress, the Department of Defense, and in the Department of Veterans Affairs.

President - Command Sergeant Major (Ret) Karen Craig
Executive Director - Sergeant Major (Ret) Frank Yoakum
Legislative Director - Daniel Elkins

Legislative Director Mr. Daniel Elkins

Daniel Elkins is the Legislative Director for the Enlisted Association of the National Guard (EANGUS) and the Veterans Education Project. Mr. Elkins is also a

Green Beret currently serving in the Army National Guard. Mr. Elkins has over fifteen years of experience advocating for Veterans.

Working on behalf of Veterans, Mr. Elkins engages Congress, the White House, and key stakeholders daily. He is a regular member of the Veterans Roundtable Policy board at the Veterans Administration.

Mr. Elkins' primary duties at EANGUS include directing Congressional outreach, engaging in policy reform, ensuring the protection of military benefits, and leading nationwide grassroots advocacy for Veterans. Before working for EANGUS, Mr. Elkins was the Congressional Liaison and Legislative Associate for the Veterans of Foreign Wars of the United States (VFW). At the VFW, Mr. Elkins' portfolio included legislative issues and Economic Opportunity with a focus on accessibility of benefits for Servicemembers, the Post-9/11 G.I. Bill, the National Guard, and Military Engagements.

Mr. Elkins' close ties with Congress, the Departments of Defense, Education, Labor, Consumer Financial Protection Bureau, and Veterans Affairs often place him at the forefront of policy decisions that affect National Guard Servicemembers and Veterans.

Mr. Elkins is a proud combat Veteran, still serving in 19th Special Forces Group Army National Guard. Before working as an advocate for Veterans and serving in the military, Mr. Elkins spent five years working overseas to solve complex issues related to human trafficking. During his time abroad, he worked across multilingual and cultural barriers with local and national governments in South America, sub-Saharan Africa, Europe, and the Middle East.

Mr. Elkins is originally from Western Maryland and currently resides in Washington, D.C. with his wife, Lauren.

Every Day in Uniform Counts

Guard 4.0: Title 32 Reform

The 2005 National Defense Authorization Act (Public Law 108–375) added Chapter 9 to Title 32 for Homeland Defense activities. Since then, however, Congress has failed to recognize the operational nature of the National Guard in Title 32.

Section 904 of Title 32 authorizes active service of National Guard members for homeland defense but specifies that authority as section 502(f), which is a training status and not an operational status. Currently, there are over 2,400 National Guard Servicemembers operating under a 502(f) training status for months at a time in response to the national emergency on the Southern border. Operational missions are not training—they are the application and testing of that training—out of the classroom and onto the field of execution. National Guard personnel performing homeland defense duties on the border deserve the same benefits for their sacrifice and service as Active Duty.

As the National Guard moves into Guard 4.0, transitioning from an operational reserve into a ready reserve force, members of the National Guard will see significant increase in training and operational tempo. It is imperative, then, that members of the National Guard are adequately accounted and compensated for their Service. EANGUS urges the Committee to amend section 904 to remove all references to section 502(f) and institute a new authority for active service for the purposes of homeland defense, an operational mission status. In addition to proper accounting and benefits early stated, it will allow for accurate budgeting, manning, and tracking operational service. The revised authority fits well with the proposed duty status reform efforts of the Department of Defense and the increased utilization of the National Guard under Guard 4.0.

In addition, EANGUS urges the Committee to develop a triggering mechanism for using Title 32 in the event of natural disasters. We suggest that once the Presidential declaration of a disaster occurs, or possibly seven days after said declaration, Title 32 section 904 would automatically trigger into authority (much the same as 10 USC 12310 does for WMD–CST and Air Sovereignty missions), changing the duty status of responding National Guard members from State Active Duty to 32 USC 904.

Post 9/11 GI Bill Parity for Education Benefits

The National Guard deserves Post 9/11 GI Bill (PGIB) eligibility parity with Active Duty Servicemembers. Before October 1, 2016, the U.S. Army Human Resources Command interpreted Title 38 U.S.C. § 3301(1)(B) to include only mobilization, contingency, Active Duty Operation Support for Active Component, and Contingency Operations for Active Duty Operation Support for Active Component as qualifying service for their Post-9/11 GI Bill Benefits.

That interpretation resulted in the Army Human Resources Command not reporting qualifying service to the Department of Veterans Affairs through the Veteran Information System, erroneously disapproving National Guard and Reserve Component members' participation in Transfer of Education Benefits (TEB), and not recording orders eligible for their Post-9/11 GI Bill benefits. Beginning October 1, 2016, the Army Human Resources Command expanded their interpretation of title 10 USC § 12301(d) to include Reservists who conduct Active Duty for Training (ADT), Active Duty Special Work (ADSW), and Active Duty Operational Support-Reserve Component (ADOS-RC) performed after September 10, 2001 as qualifying service for the PGIB and TEB eligibility.

However, Army Human Resources Command did not include members of the National Guard who conduct other forms of active service within the scope of their interpretation. This leaves members of National Guard disadvantaged and overlooked in the accumulation of their Post-9/11 GI Bill benefits and their Transfer of Education Benefits while performing the same service and following the same orders as their peers. For example, a member of the National Guard will be on orders to attend Active Duty for Training to receive their hazmat certification, or to attend sniper school. Also present could be a Reserve Component member and an Active Duty Servicemember. All are in uniform attending the same classes and serving the same period of time. The National Guard Servicemember will not accrue any eligibility for Post-9/11 GI Bill benefits while performing active service, but the Reservist and Active Duty Servicemember will.

The Enlisted Association of the National Guard believes that Every Day in Uniform Counts, and that members of the National Guard should be at parity with their counterparts in Active Duty to be eligible to earn and accrue benefits from their service. Therefore, EANGUS recommends the 116th Congress to:

- Amend section 3311(b) of Title 38, United States Code, to allow for additional duty statuses to qualify for the Post-9/11 GI Bill;
- Amend section 3301 of Title 38, United States Code, to include duty under section 502 of Title 32, and for which a member is eligible to receive pay under sections 204, 206, or 372 of Title 37; and,
- Amend section 3301 of Title 38, United States Code, to include Active Duty for Training, Active Duty as defined in 101(12) of Title 32, and Full-time National Guard Duty as defined in section 101(19) of Title 32.

Proving Eligibility and the DD Form 214

There is no capstone document that summarizes both Reserve Component (RC) and Active Component (AC) service. The current process disregards transitions across the continuum of service between AC and RC through a Servicemember's career. The lack of a DD Form 214 inhibits RC Servicemembers from claiming earned benefits and proving the full scope of their military service. Additionally, when a RC member does receive a DD Form 214 upon completion of active service, it often does not include cumulative service. This makes it difficult for RC members to maximize their earned benefits.

RC Servicemembers do not receive a DD Form 214 unless they are on active duty orders for more than 90 consecutive days.¹ In addition to having a period of active service without official documentation, without a DD Form 214 being provided when an RC member serves less than 90 days they cannot prove eligibility for Federal Veteran benefits such as the G.I. Bill, Veteran's preference for Federal employment, and military funeral benefits. According to DoDI 1336.01, Reserve Component Servicemembers only receive a DD Form 214 when:

- Separated from a period of active duty for training, full-time training duty, or active duty for special work when they have served 90 days or more.
- When required by the Secretary of the Military Department concerned for shorter periods.
- Upon separation for cause or for physical disability regardless of the length of time served on active duty.
- When ordered to active duty for a contingency operation regardless of the number of days served on active duty.

The VA website² instructs servicemembers that the DD Form 214 or "any other documents you think are necessary" must be presented to prove eligibility for various benefits. For example, Post-9/11 G.I. Bill benefits in Title 38 requires 30 days of active duty service to qualify for this benefit. However, RC Servicemembers do

¹ DoDI 1336.01, Enclosure 3, Paragraph 2(d)

² <https://www.gibill.va.gov/apply-for-benefits/road-map/2-collect-your-information.html>

not receive a DD Form 214 unless they are on active duty orders for more than 90 consecutive days or for a contingency operation. RC Servicemembers are often placed on assignments lasting less than 90 consecutive days. Complicating the process further, members of the National Guard can transfer states, known as Interstate Transfer (IST), over the course of their career, but the records don't always follow. Critical service-related documentation often remains in the issuing state. Human error and a convoluted personnel system can cause orders to be incorrectly documented or not documented at all. Making matters worse, Servicemembers are often unaware that the onus is on them to maintain personal records of all orders. The result of the current, disaggregated personnel system results in many Servicemembers receiving only a portion of their earned benefits.

As we work with Committees on Armed Services to ensure members of the National Guard consistently receive an updated DD Form 214, the Enlisted Association of the National Guard recommends the House and Senate Committees on Veterans Affairs to:

- Direct the Department of Veterans Affairs to explicitly and publicly list all qualifying documents to prove service, including the NGB Form 22; and,
- Direct the VA to conduct an education campaign at all regional offices to inform employees of all qualifying documents that prove service, including the NGB Form 22.
- Direct the DoD to provide a DD Form 214 for all periods of active service, not just those periods of consecutive 90 days.

Medical Discharge Parity

Members of the National Guard that are medically discharged documented by NGB Form 22 are not eligible for Post-9/11 GI Bill education benefits; this is a stark contrast to Active Duty Servicemembers who are eligible to receive full Post-9/11 GI Bill education benefits when medically discharged and documented by DD Form 214.

The medical discharge provision in 38 USC 3311(b)(2) only applies to individuals discharged or released from Active Duty for a service-connected disability. It does not cover individuals released from the National Guard or Reserve Components. Consequently, an Active Duty Servicemember who receives a medical discharge noted on a DD Form 214 may have eligibility for full Post-9/11 GI Bill benefits without having served 36 months Active Duty. A Servicemember in the National Guard, however, who receives a medical discharge noted on the NGB Form 22 is not eligible to qualify for any Post-9/11 GI Bill benefits.

Additionally, Legislative Liaisons from the National Guard Bureau and VA have stated that there is an appeals process in VA using the Department of Defense's Identity Repository Veterans Information Solution (VIS). For those who believe they ought to qualify for full Post-9/11 GI Bill benefits, the Department of Veterans Affairs will review the unique nature of the appealing Servicemember's medical discharge. However, VA is very firm that eligibility must be noted on the DD Form 214, disqualifying members of the National Guard from this appeals process.

Members of the National Guard who are medically discharged due to service must have the same opportunity for benefits as Active Duty Servicemembers. The Enlisted Association of the National Guard believes this inequity reinforces the need for a DD Form 214 for all members of the National Guard, and we recommend the Committee direct DoD to provide a DD Form 214 for all periods of active service to members of the National Guard.

Fighting Against Suicide in the National Guard

On average, 20 Veterans commit suicide every day. Members of the National Guard and the Reserve components make up roughly 25 percent of these suicides, and more than half of these victims within the National Guard and Reserve components could not access mental health care (about three in every five). This means that over half of the suicides among Reserve component members might have been prevented, but these men and women are ineligible to gain access to mental health care through the Department of Veterans Affairs because they have never been activated on Federal orders.

Current data available through VA³ indicates that Veterans are most at-risk within the first three years of separation, with the risk factor rising steadily during the first year. Additionally, this risk factor is higher among non-deployed Veterans. On the other hand, if more Reserve Component members are able to access VA men-

³ <https://www.publichealth.va.gov/epidemiology/studies/suicide-risk-death-risk-recent-veterans.asp>

tal health care within the critical time-window of the first year of separation, rates of suicide might fall dramatically.

The Enlisted Association of the National Guard believes that every day in uniform counts, and Servicemembers who do not deploy still feel the burden of service of their peers. To maintain the overall lethality of the Reserve components, all members of the National Guard and Reserves need access to mental health care.

The Enlisted Association of the National Guard of the United States recommends that preventative mental health care be extended to never federally activated Reserve component members such that:

- One year of mental health care through VA be available to Reserve component members upon Expiration Term of Service (ETS); and
- An additional year of coverage be allotted if and when a never federally activated Reserve component member contacts VA for mental health care.

Calculating the Return on Investment of the Post 9/11 GI Bill By Creating a GI Bill Calculator

The Enlisted Association of the National Guard believes calculating the Return on Investment (ROI) of the Post 9/11 GI Bill will provide greater oversight of GI Bill eligible institutions, while providing transparency to Veterans deciding where to invest their GI Bill education benefits. We recommend that the Committee direct the Department of Veterans Affairs to form a partnership with the Department of Education in order to share its data with the Institute of Education Sciences (IES). We suggest the VA share the following data sets:

1. The name of the institution receiving benefits
2. The program attended
3. How much benefit used
4. Age and rank, if a Veteran
5. Whether it is a Veteran or their family using Post-9/11 GI Bill Dollars

Individual student-level data systems exist in many Federal agencies, but Federal data remains siloed, inhibiting the study of student outcomes. Even when agencies recognize the value of linking their data, there is no current infrastructure to facilitate such data sharing. This problem manifests itself in the inability of the VA to accurately report basic outcomes and return on investment of the billions of dollars spent on the Post-9/11 GI Bill.

While VA has made significant progress in the administration and oversight of Veteran education benefits, as the Department of Education moves towards programmatic level data, updating the GI Bill Comparison Tool is essential to ensure that Veteran students are given Veteran-specific outcomes to be at parity with the information given to nonveteran students. Without this necessary improvement to create a GI Bill Calculator, Veterans and their family members who take advantage of GI Bill benefits might enroll in programs that have low Veteran student success rates and low ROI for a specific degree pathway, despite having high institutional outcomes in general. In turn, many Veterans will continue to invest precious time and scarce taxpayer dollars on pursuing a degree or credential that will not produce desired results.

Better data could be used immediately to improve the GI Bill Comparison Tool and calculate the ROI of the Post- 9/11 GI Bill, without VA having to obtain all the necessary data-sharing agreements themselves.⁴ At present, the Department of Education's College Scorecard displays a range of student outcomes, like the average salary of an institution's graduates, since it is linked with IRS data, or debt data derived from the office of Federal Student Aid. The Scorecard will soon be presenting student outcome data at the even more meaningful programmatic level. If the Department of Veterans Affairs agrees to share its data with The Department of Education, all necessary data will be linked in order to disaggregate Veteran students down to the programmatic level, calculate the ROI of the Post-9/11 GI Bill, and create an improved GI Bill Calculator for all Veteran students. This will provide the transparency Students Veterans deserve when deciding where and how to invest

⁴This data sharing is already established in 20 U.S. Code § 1015, which directs the Commissioner of Education Statistics to: develop a uniform methodology of reporting postsecondary spending, design systems capable of receiving and analyzing data from other Federal agencies, disseminate data to stakeholders, and work with the Secretary of the Department of Veterans Affairs to collect, study, and disseminate information on financial aid and education benefits.

their GI Bill benefits, further enhancing the ROI of the Post-9/11 GI Bill, and provide additional oversight over GI Bill eligible institutions of higher education.

Holistic Military Assessments for Postsecondary Credit Analysis of Programs of Instruction

Currently the American Council on Education (ACE) holds the DoD contract to recommend to institutions of higher education the credit equivalencies of DoD training for postsecondary degree and credentialing programs. However, ACE does not fully evaluate all military training curriculums; ACE only evaluates Basic Training and some Military Occupational Skill schools with few exceptions-ignoring Servicemembers' duties, additional training, assignments and responsibilities, yearly performance reviews, and deployment time.

Furthermore, ACE's recommendations fall short of what Servicemembers deserve because they do not fully capture competencies, as ACE does not fully review Programs of Instruction (POI), or cross-reference these POI's to college syllabi in order to recommend academic credits. The lack of an accepted peer reviewed evaluation of military POIs often places institutions of higher education in a difficult position, since, without an accepted standard of evaluation, institutions that are willing to innovate to award more college credit to Servicemembers and Veterans must invest substantial resources to attempt their own evaluations of POIs, while potentially jeopardizing their accreditation.

Consequently, Servicemembers and Veterans are denied postsecondary credit they deserve for their military training and experience. This forces Servicemembers and Veterans to take redundant courses in order to earn a degree and enter the workforce. These additional barriers are redundant expenditures of taxpayer dollars in the form of military training, Post-9/11 GI Bill benefits, and even Title IV loans. Institutions are often unaware of how to successfully evaluate prior military training for credit without being able to review training curriculum (POIs).

The Enlisted Association of the National Guard recommends that:

- The Department of Veterans Affairs require institutions to develop official policy on the analysis of available Programs of Instruction; and,
- To develop policy that aims to award the maximum amount of postsecondary credit to Servicemembers and Veterans for their military training; and,
- Whenever possible, that these awarded credits be directly applicable to a Servicemember's or Veteran's degree pathway.

Uniformed Services Employment and Reemployment Rights Act

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted to eliminate or minimize disadvantages created by military duty to civilian careers. Its intention is to minimize the disruption to the lives of persons performing military service, their employers, their fellow employees, and their communities, by providing for the prompt reemployment of Servicemembers upon completion of duty, and to prohibit discrimination against persons because of their service in the uniformed services.

However, under the Guard 4.0 initiative, members of the National Guard are being called upon more frequently than ever before to conduct more Active Duty for Training, longer and more frequent drill periods, and must reach readiness for combat deployment every three years, resulting in many more Servicemembers in the National Guard deploying for combat rotation. Due to these more frequent training rotations, employers of members of the National Guard are becoming increasingly disincentivized to hire these Servicemembers, and members of the National Guard are exhausting their five-year time cap of USERRA protections faster than anticipated. Ultimately, without further protections, enlistment and retention in the National Guard will decrease, and employers will begin to discriminate against members of the National Guard and Reserve components.

The Enlisted Association of the National Guard (EANGUS) recommends amending 38 U.S. Code to:

- Extend the five-years of employment and reemployment protections in § 4312; and,
- Extend the five years of pension benefit protections in § 4318(b)(2); and,
- Grant employers increased tax credits for hiring National Guard Servicemembers.

Student Loan Forbearance

Members in Active Duty are eligible for student loan forbearance while on Active Duty orders, but members of the National Guard are not eligible for student loan

forbearance while on State Active Duty or when activated on Federal orders for national emergency for less than 30 days.

Unfortunately, as with Servicemembers Civil Relief Act (SCRA) protections, members of the National Guard are sometimes placed on multiple 30-day orders consecutively, effectively denying Servicemembers in the National Guard protections and benefits because these orders are not viewed consecutively. While consecutive short deployments are not uncommon, each deployment has its own set of orders that are viewed as discreet times of service. When these consecutive orders happen repeatedly, however, such as when National Guard Servicemembers have been deployed for six months, and each month had its own set of 30-day orders, it is clear that National Guard Servicemembers are being intentionally denied benefits due to a loophole in U.S. Code.

This must be stopped. The Enlisted Association of the National Guard urges the Committee to address this abuse and ensure that member of the National Guard receive the protections and benefits they deserve by closing the 30-day loophole, and counting back-to-back sets of orders as continuous.

Servicemember Civil Relief Act

The Servicemember Civil Relief Act (SCRA) was enacted in order to provide for, strengthen, and expedite the defense of the nation. SCRA enables Servicemembers to devote their entire energy into the defense needs of the nation by protecting Servicemembers during active duty service-granting them temporary suspension of judicial and administrative proceedings, capping accruing interest rates, and pausing transactions that may adversely affect the civil rights of Servicemembers during their military service.

However, when the first iteration of SCRA, 50 U.S.C. §§ 501- 579, was amended, it excluded Reserve Component and National Guard Servicemembers. In place of Federal protections, the onus was put on individual States to pass SCRA protections for their members of the National Guard and Reserve Components. During this process, SCRA protections were annulled for members of the National Guard while on Title 32 orders for less than 30 consecutive days.

Unfortunately, this has made members of the National Guard vulnerable to civil actions during periods of unavailability due to military obligation. The amendment to this act has allowed civil attorneys to exploit National Guard personnel; with civil attorneys being trained to bring emergency motions and schedule appearances during times of unavailability, rendering a default judgment against Servicemembers on Title 32 orders, which they have very little, if any, ability to reconcile.

The Enlisted Association of the National Guard (EANGUS) recommends amending 50 U.S. Code §§ 3901–4043 to include:

- National Guard personnel performing Inactive Duty for Training;
- National Guard personnel performing Annual Training;
- National Guard personnel attending training; and,
- National Guard personnel performing service due to an emergency not ordered by the President.

85/15 Reform

Members of the National Guard have faced undue difficulty persisting in postsecondary education due to diverse interpretations of the 85/15 Rule. 38 CFR § 21.4201 and 38 USC § 3680A state that Department of Veterans Affairs (VA) shall not approve the use of education benefits in any course for an eligible Veteran if the percent of Veterans using education benefits in that course exceeds 85 percent. While these Veterans may still enroll, the 85/15 Rule prohibits paying VA education benefits to students enrolling in a program when more than 85 percent of the students enrolled in that program are having any portion of their tuition, fees, or other charges paid for them by the school or VA. This means that VA cannot give eligible Veterans their benefits to attend a program or curriculum with a high 85–15 student ratio.

While this accountability metric has been helpful in overseeing the use and abuse of VA education benefits, it has had an unforeseen adverse effect on members of the National Guard, who often must disenroll from their current postsecondary programs for military service. While deployed, members of the National Guard are often notified they will be unable to reenroll in their postsecondary programs due to changes in their program's 85/15 ratio.

Believing this to be an incorrect application of this oversight metric, EANGUS appealed to the Secretary of the Department of Veterans Affairs for an official statement regarding the application of the 85/15 Rule. The Secretary's response has changed policy governing 85/15 application in order to secure VA education benefits

for disenrolled Veteran Students if they wish to reenroll, but does not specify the conditions of disenrollment to military service.⁵

The Enlisted Association of the National Guard believes this interpretation of policy is too wide in scope, and weakens the oversight provided by the 85/15 Rule. Therefore, EANGUS recommends the 116th Congress to amend 38 USC § 3680A to limit the scope of reenrolling Veteran students eligible for VA benefits, regardless of the current 85/15 ratio of their program, only to Veteran students that had to disenroll due to military service.

GI Bill Transferability

Beginning January 2020, new policy will go into effect that restricts eligibility for Transfer of Education Benefits (TEB) only to Servicemembers with “at least six years, but not more than 16 years, of total creditable service. Eligibility does not guarantee approval.”⁶ This policy change would require Servicemembers to commit to an additional four years of service at the time of their application for TEB, rather than after six years of service, canceling previous exceptions. Additionally, this revised policy precludes Servicemembers with more than 16 years of services from transferring their earned education benefits to their families.

The Department of Defense states that the purpose of these policy changes is to improve retention in the uniformed services, based on the “authority to transfer unused education benefits to family members” stipulated in Title 38 U.S.C. Section 3319(a)(2): “The purpose of this authority is to promote recruitment and retention in the uniformed services.” However, this policy change effectively breaks our promise to military families: it moves the goalpost for eligibility, sows confusion among Servicemembers, exacerbates current inequities for eligibility, and most importantly it penalizes the men and women who have served in uniform the longest.

The Enlisted Association of the National Guard of the United States respectfully urges Congress to make the Post-9/11 GI Bill truly an earned benefit, ensuring that all Servicemembers who have completed 10 years of service in the uniformed services are eligible to transfer their benefits to their families at any time—both while serving on Active Duty and as a Veteran.

Air National Guard Tuition Assistance Parity

The U.S. Air Force (USAF) does not allocate funds for members of the Air National Guard (ANG) to receive Federal Tuition Assistance (TA). Historically, Title 32 Airmen could access the TA funds when they were deployed in a Title 10 status, or on Active Guard and Reserve Title 32 status. In October 2015, an Associate’s degree became a mandatory prerequisite for promotion to the ranks of E-8 (Senior Master Sergeant) and E-9 (Chief Master Sergeant) in the Air National Guard. A recent USAF policy change, impacting Airmen’s need to receive higher education, created a scenario where EANGUS members believe the Air Force should consider changing its policy to allow members to receive TA. Specifically, this policy change mandates that in order to achieve senior enlisted ranks, ANG members must possess a degree.

State Tuition Assistance programs substitute a force-wide funding for the Air National Guard. Unfortunately, State programs are disparate and disadvantage Airmen in States where resources are marginal or nonexistent. Federal TA provides a common foundation of funding to achieve policy requirements.

The Enlisted Association of the National Guard of the United States urges the Air National Guard to fund Federal Tuition Assistance for all ANG members.

Montgomery Selected Reserve and Federal Tuition Assistance Parity

On March 15, 2011, Department of Defense Instruction (DoDI) 1322.25 changed existing policy governing the Montgomery GI Selected Reserve (MGIB-SR). Previously, Reserve component Servicemembers eligible for MGIB-SR could use Federal Tuition Assistance (TA) concurrently with their GI Bill benefit. This policy was at parity with Active Duty benefits, i.e. the Montgomery GI Bill-Active Duty (MGIB-AD) and the Post-9/11 GI Bill (PGIB), which are both able to be used concurrently with Federal tuition assistance. However, Department of Defense Instruction 1322.25 changed this policy, barring Servicemembers of the Selected Reserve from being able to use TA concurrently with their education benefit.

The Department of Defense states a reversal of this DoDI will not bring parity to the Selected Reserve but must require a legislative solution. For, Servicemembers eligible for MGIB-AD and PGIB are, by statute, able to concurrently use TA with

⁵ Official Letter from Secretary Wilkie of the Department of Veterans Affairs included in Appendix

⁶ DoDI 1341.13, Page 9

their education benefit. 38 U.S.C. § 3014(b) governs MGIB-AD, and states that Servicemembers may use MGIB-AD funds to supplement tuition, fees and expenses directly attributable to the school that are not covered by TA; housing, transportation, and subsistence expenses cannot be paid by MGIB-AD while in concurrent receipt of TA.

The Post-9/11 GI Bill is more generous and flexible in concurrent use with TA. While 33 U.S.C. § 3313(e)(f) restricts PGIB funds to tuition and fees of an educational institution not covered by TA or other assistance, it also provides a lump sum for "books, supplies, equipment, and other educational costs."

Presently, no similar statutory provision exists in law governing the MGIB-SR program.

The Enlisted Association of the National Guard of the U.S. recommends amending 10 U.S.C. § 16131 to provide a program authorizing the concurrent use of TA benefits and MGIB-SR benefits to the same extent that such benefits may be used under the Post-9/11 GI Bill (33 U.S.C § 3313(e)(f)).

Amending DoDI 1322.25 and 32 CFR §68 to reflect changes in statute will also be required.

Prepared Statement of J. Roy Robinson

Chairman Levin, Ranking Member Bilirakis and other distinguished members of the Subcommittee:

Introduction:

On behalf of the almost 45,000 members of the National Guard Association of the United States and the nearly 450,000 soldiers and airmen of the National Guard, we greatly appreciate this opportunity to share with you our thoughts on today's hearing topics for the record. We also thank you for the tireless oversight you have provided to ensure accountability and improve our nation's services to veterans and their families.

In my testimony, I would like to focus on three specific issues impacting Guardsmen that fall under the jurisdiction of this Committee. These issues are: expanding TRICARE to cover all servicemembers in all statuses, streamlining record keeping of service across the Total Force, and highlighting legislative initiatives that support our employers as readiness requirements and operational tempo continue to increase.

Strengthening Service Member Civilian Employment

As the National Guard remains an integral part of our nation's defense, both at home and abroad, increased training and readiness requirements combined with more frequent deployments has strained the traditional citizen-soldier construct, placing stressors on both the Guardsmen and their employers.

While I cannot anticipate future operational demands, what is clearly true is that the era of "one weekend a month and two weeks a year" is over. Our members are serving in uniform more days throughout the year and often completing military tasks on civilian time, all while undertaking additional military administrative and training duties due to insufficient levels of full-time support personnel. As we continue to increase operational demands on our soldiers and airmen, their employers are feeling the effects of their extended absence. In the wake of this new reality, we ask that the Committee supports continued efforts to assist Reserve Component service members and their employers.

One major effort I would like to discuss with the committee today to alleviate some of these pressures is the idea of providing zero-cost TRICARE health coverage to the National Guard and Reserve. While this is not an effort that will be concluded this year, I believe very strongly that the time is now to discuss if an Operational Reserve is better served through ensuring guaranteed medical coverage in lieu of the current disjointed system of third party health contractors and Periodic Health Assessments.

The benefits of zero-cost TRICARE coverage extend beyond medical readiness and well-being for reserve component military families. TRICARE, one of our top retention policies, will help us keep a manned and ready force. In addition to building medical readiness today, providing preventive care throughout our service members' careers will likely reduce medical expenditures when they transition from drilling Guardsman to Veteran. Further, this will become a significant employer benefit when a CEO or hiring manager knows that this service member won't require health insurance coverage. As we ask more and more of our National Guard and

Reserve units in peacetime training, I worry that companies will start to choose equally qualified non-military candidates over our service members simply because they are concerned that the Soldier or Airman will be away too often. We must find a way to better incentivize these companies.

Unemployment and underemployment also continues to be a concern for our members. We ask for your continued support in passing critical legislation creating pathways to steady employment for Guardsmen. We support Congressman Ryan and Palazzo's legislation, H.R. 801, the Reserve Component Employer Incentive, Compensation, and Relief Act of 2019, which grants tax credits to employers who employ members of the National Guard and Reserve. Legislation like this is critical to incentivize National Guard employment as we continue to demand more training time of our citizen soldiers.

Improving Data Management

A significant concern across the Total Force is easing burdensome bureaucracy which limits the ability for our service members to transfer among the different components. Creating hurdles to the Continuum of Service is a detriment to those currently serving and creates a significant hurdle in retaining service members as individual frustration builds.

One major concern is with the Certificate of Active Service, the DD-214. Currently, only Active Duty service over 90 days is captured on this critical document of final service. If a Guardsman serves but never goes on Active Duty, they currently don't receive a DD-214 which is generally seen as the gold standard of record of military service. Additionally, any active service less than 90 days, which is quite common, will never be captured in the cumulative data on the record. This current practice places the record keeping burden on the Veteran as they have to maintain years of documents rather than having a cumulative document similar to their Active Duty counterparts. Streamlining this process will benefit the service member as well as the VA as it will reduce confusion over what is a valid document. NGAUS firmly believes that there needs to be one Total Force record of military service, which includes Reserve Component duty.

Conclusion:

I thank you all again for allowing NGAUS to testify before the Committees today. The work done here is critical to the well-being of our service members and the success of our National Guard. I look forward to continuing our work together and sincerely appreciate the steadfast leadership from the members and their staffers in advocating for the men and women of the National Guard.

Prepared Statement of Susan Lukas

The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America is a professional association of all ranks of servicemembers, veterans, and family members of our nation's seven uniformed services.

ROA was founded in 1922 by General of the Armies John "Black Jack" Pershing, during the drastic reductions of the army after World War I. It was formed to support a strong national defense and focused on the establishment of a corps of reserve officers who would be the heart of a military expansion in the event of war. Under ROA's 1950 congressional charter, our purpose is unchanged: to promote the development and execution of policies that will provide adequate national defense. We do so by developing and offering expertise on the use and resourcing of America's Reserve Components.

The association's members include Reserve and Guard Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen who frequently serve on active duty to meet critical needs of the uniformed services. ROA's membership also includes commissioned officers from the United States Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

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DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The ROA is a member-supported organization that has not received grants, contracts, or subcontracts from the Federal government in the past three years. All other activities and services of the associations are accomplished free of any direct Federal funding.

STATEMENT

ROA appreciates the opportunity to discuss issues that affect National Guard and Reserve servicemembers. ROA's focus today aligns with our congressional charter, "to support and promote the development in execution of a military policy for the United States that will provide adequate national security."

Operational Force V. Strategic Force

The Reserve Components (RC) of America's military have long been called the nation's "strategic reserve." More than two centuries before the well-known "surge" of 2007 in Iraq, our founding fathers established a strategic force to augment America's new navy and army. The surge force came from each state's militia; when needed by the growing nation, they were ordered into a Federal status, not unlike what occurs today when the National Guard is "federalized."

Over time the militia became part of the Reserve Component, comprising the National Guard and the Federal reserves of the military services.

Limited wartime uses of the strategic reserve occurred through the Vietnam War. At the end of the Cold War the active component was reduced, and the RC began to be used to augment peacekeeping missions and other active-duty operational requirements.

The RC responded to the Gulf War in 1991, operations associated with support to NATO, and missions responding to terrorism. Today, 100 percent of some missions have been assigned to the reserve components.

The shift from a mainly strategic role to a role including both strategic and operational responsibilities has not occurred without problems. After 9/11, the U.S. Congress took steps to accommodate the transition; new duty statuses that codified types of mobilizations and the establishment of an updated G.I. Bill are two examples. ROA's testimony is focused on a selection of the subjects under the purview of the Subcommittee.

EMPLOYMENT: Reserve Component employment and unemployment issues have continued despite the drawdown from Iraq and Afghanistan. ROA believes the focus of employment and transition from VA for servicemembers is skewed toward those in the Active Component (AC), not the RC.

EDUCATION: Many servicemembers cannot qualify for the Post-9/11 G.I. Bill education benefit because of record keeping that fails to accurately reflect their qualifying active duty time. The GI Bill is an integral part of enabling a successful civilian career. Education is a key factor for veterans to qualify for a job that enables them to support their family and a career that will move them toward financial freedom.

SCRA and USERRA: Another important employment issue is to help our RC servicemembers stay focused on their military service when called on by having Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) laws in place. We need to protect their employment while on military orders. They should be able to return without fear of civil actions that may take place as a result of their military service.

OTHER: While not under the jurisdiction of this Subcommittee, servicemembers have issues in other areas in order to qualify for veteran benefits. These will be addressed at the end of the testimony.

EMPLOYMENT

A true story: An enlisted member of the New York Air National Guard (ANG) is a paid firefighter in New York. His supervisors at the fire department objected strenuously to his ANG participation and gave him a hard time about the days of fire department work that he missed to perform military duty and training.

In June 2013 the firefighter took the examination for promotion to lieutenant. His was the high score among all the firefighters who took the examination. All the candidates were interviewed for the promotion by a committee consisting of three fire department supervisors.

The firefighter stated under oath that the three committee members had raised the issue of his ANG service and had suggested that his military service disqualified him from the promotion. The city promoted two candidates to lieutenant from the June 2013 process. Of the two candidates selected, one scored third on the test and the other fourth.

Don't let anyone tell you that government at any level is free of discrimination against members of the Reserve and National Guard.

ROA has several legislative proposals on Reserve Component members employment.

Veteran Status: Change Federal Hiring Preference for Reserve Component Members

ROA urges Congress to confer veteran status for purposes of Federal hiring veterans' preference on Reserve Component members after 180 "cumulative" days on active duty versus the current "consecutive" days on active duty.

Members of the Reserve and Guard meet operational requirements by performing duty on a frequent basis but often for short periods of time. Because DoD limits many mobilizations to 179 or fewer days, reservists can complete an entire career without serving the 180 consecutive days needed for veteran status per Title 5 U.S.C. 2108 - even though they may have aggregated several years of active service.

A case in point is Presidential Medal of Freedom recipient Bonnie Carroll, founder of Tragedy Assistance Program for Survivors. Bonnie retired from the military as a major, with 32 years of service in the Air National Guard and Air Force Reserve. During those three-plus decades, she did not accrue 180 or more consecutive days on active duty . . .

The ROA proposal establishes parity between the Reserve and Active Components in fulfilling a 180-day requirement for veteran status. However, this proposal does it in a manner that reflects how the services use the Guard and Reserve, for shorter periods of time to meet peacetime operations, AC augmentation, and other "surge" requirements.

In the 115th Session, the House Committee on Veterans' Affairs proposed legislation that would have supported this change but did not make it out of committee for consideration. This bipartisan proposal requires minimal administrative support and does not require offset funding.

This reform offers meaningful benefits, at no charge to the taxpayer, for both members of the Reserve and National Guard, and the nation that needs quality civil servants in the Federal government.

Transition Assistance Program (TAP)

The Department of Defense and the Department of Veterans Affairs have built their transition program on the premise that veterans need employment and transition assistance as they leave their military service upon separation or retirement.

However, employment and transition assistance are needed by members of the RC at different times and for different reasons than those in the AC.

Reserve Component members need employment assistance throughout their military career because they also maintain a civilian career. Because National Guard and Reserve members are placed on and off military orders they are constantly "transitioning" off active duty orders every time they deploy (in turn, their employer is adjusting their work schedule and trying to accommodate their absence and the requirement for their re-employment upon return).

The Department of Defense Transition Assistance Program (DoD-TAP) provides information on a variety of subjects, access to important documents, and training to ensure servicemembers separating from active duty are prepared for their next step in life - whether pursuing additional education, finding a job in the public or private sector, or starting their own business. This redesigned TAP is the result of an interagency collaboration to offer separating servicemembers and their spouses better, more easily accessible resources and information to make their transitions more successful.

All too often RC and NG servicemembers terminate their Reserve Component service without transition assistance and/or knowledge of programs available to aid in their final transition.

We believe that due to the nature of their duty assignments, education on VA benefits must start early in their career. This will ensure they have the necessary knowledge during their final transition and will help inform during their service them about useful programs. These contacts could occur during drill weekends using a mobile van or coordinating with the Exchange to set up a manned kiosk/table.

EDUCATION

When it comes to education programs ROA believes that those who wore and those who wear the uniform have the perspicacity, given requisite information, to make sound choices with their money. We consider education benefits, once earned with service, to be “theirs” to use within law and policy.

ROA also believes that education assistance from the military should be flexible and meet the needs of servicemembers with their various goals. Not every GI Bill beneficiary wants or needs a four-year degree; many have shown us that they want a technical certification, for example, often available to them only from a for-profit “proprietary” school, of which there are many fine examples. As we will explore, other beneficiaries want to start a business or buy a franchise, both of which can - in the spirit of the GI Bill’s inception - help them and the nation.

It is now commonly recognized that the portal to success is no longer necessarily a university admissions office door . . .

Post 9-11 Veteran Business Acceleration Act (proposed legislation)

This bill will establish a pilot program to allow a servicemember to elect to receive financial assistance to establish and operate a business.

Under current law, GI Bill benefits may be used for any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636 (i)(1)).

Proposals to expand the eligibility of individuals to use GI Bill benefits for entrepreneurship or starting a business have been offered over several Congressional sessions. To my knowledge, the following bills were introduced:

- H.R. 3167, The VET Act of 2011, would establish a veteran’s small business entrepreneurship program allowing eligible individuals to receive up to \$1,421 monthly under the Montgomery GI Bill-Active Duty or up to \$17,500 annually under the Post-9/11 GI Bill to acquire or start business.
- S. 3442, The SUCCESS Act of 2012, would change the definition of qualified providers of entrepreneurship education to be only any small business development center de-scribed in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).
- H.R. 179, The Franchise Education for Veterans Act, was introduced. It would permit GI Bill payments under Chapters 30, 32, 33, and 34 for franchise training at a training establishment for up to 12 months and up to \$15,000 total.
- S. 938, The Franchise Education for Veterans Act of 2013, would amend Chapters 30 and 33 to allow franchise training programs as programs of education using Chapter 33 payment schedules for up to 12 months and \$15,000.
- S. 1870, The Veterans Entrepreneurial Transition Act of 2015 it would amend the Small Business Act to require the Administrator of the Small Business Administration to carry out a pilot program on issuing grants to eligible veterans to start or acquire qualifying businesses.
- H.R.5193, The Veterans Business and Transition Act of 2017, this bill provides statutory authority for the Boots to Business program, which provides entrepreneurship training to individuals including veterans and active members of the Armed Forces, to be administered by the Small Business Administration.
- S. 121, Veterans Small Business Ownership Improvements Act, to establish the veterans’ business outreach center program, to improve the programs for veterans of the Small Business Administration.

Some of the concerns raised regarding the use of G.I. Bill benefits to start a business (or, we would suggest, acquire an existing business) are establishing duplicative Federal programs, the lack of expertise within the VA and state approving agencies to review and approve business plans, the difficulty in separating training costs from the total costs of franchising, and the high failure rate of new businesses. (Of course, a GI Bill beneficiary may spend his or her benefit on a four-year degree and never use that education, so the “value” of the use of the benefit cannot in any event be “guaranteed.”)

We think, given the recognition of the value of business creation to the American economy and health of its workforce, with the cascading effects on families and communities, that these concerns can be addressed. Many servicemembers leave with advanced degrees, and with years of experience and training. Using the G.I. Bill to start or acquire a business may be the best way for them to transition from the military and use their skills, knowledge, maturity, and leadership to succeed.

Projected Education Policy 90/10

For some colleges, universities, or vocational schools, government dollars can make a huge - even a make-or-break - difference to their financial vitality. There is evidence that this situation has prompted some educational institutions - both public and "proprietary" for-profit schools - to aggressively pursue students who have Federal aid, necessitating the protection of these beneficiaries. So far, the protection suggested seems to be that levied only against the proprietary sector.

The recommended protective fix is to add VA and DoD education funding assistance to the 90 side of the 90/10 ratio because they are not part of title IV. This means that, for example, a given school's hurdle to achieve the 10 percent minimum tuition revenue target would not be eased by the inflow of GI Bill money into that 10 percent bucket.

The 90/10 rule was established by, P.L. 105-244, Amendments to the Higher Education Act of 1965, Section 102(b)(1)(F), states, '(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.- "(1) PRINCIPAL CRITERIA.-For the purpose of this section, the term "proprietary institution of higher education" means a school that-(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under title IV, as determined in accordance with regulations prescribed by the Secretary.

ROA considers this biased against one educational sector; it therefore reduces veterans' choice. Any requirement associated with if and how much Federal funding a school can receive should be applied to all educational institutions and linked to achievement of certain standards. For example, a metric that could be used to performance in producing students equipped to succeed (graduate with a certain GPA, get a decent job, etc. - accountably) . . .

Simply put, if an institution can show by objective metrics applied equally to both conventional and propriety institutions, it could conceivably get all its funding from Federal sources. What matters isn't that a student is "putting in" ten cents of every dollar; rather, what matters is the quality of the experience vis- . . . -vis its likelihood to facilitate success.

If a school does not perform, then maybe corrective measures are in order - ratios or some other measure. If some ratio is necessary (we don't think it is), it should apply to everyone. The military operates on standards applied to all. If Congress determines that to safeguard quality education for GI Bill beneficiaries, it must refine standards beyond those applied by state approving agencies, those standards should be applied to the entire education sector (with exceptions as provided for by the Minority Serving Institutions Program), not just the proprietary education sector.

The reason for ROA's position also goes to the concern that many proprietary schools offer vocational training and certificates. Because military members leave service with experience, they may not want their only choice being a 4-year degree.

The effect of "moving" GI Bill benefit revenues to the 90 percent of the ratio will have effects beyond those intended by some in Congress and some advocates; we will not merely affect the few schools that have been alleged to engage in abuse.

The Department of Veterans Affairs itself estimates that "closing the loophole" will divest 66,000 GI Bill beneficiaries of their education program - essentially, schools will shut down programs or even cease to exist. How does that help these veterans? This is about ten percent of the entire GI Bill user population; we ask Congress what other policy would it support that eliminates benefits to a tenth of the using population?

If Congress must require a ratio, we ask that at least consistency exists between Federal agencies: let's have one ratio for both VA, which is bound by 85/15, and the Department of Education, which uses 90/10. We also urge that:

- Any ratio (as well as standards) should apply across the board to private and proprietary schools.
- Legislation should include a period of time for an orderly transition to the ratio. VA believes an immediate transition (more of an "abrupt change") would dramatically affect 100 schools - and that means the GI Bill users of those 100 schools. ROA believes one year would allow schools to come into compliance and allow all affected students to complete the semester in which they are enrolled.
- VBA is neutral on the 90/10 ratio but believes any legislated changes should reduce the number of veterans that may be negatively impacted, and we of course agree.

Allocate funds to be used to provide Federal Tuition Assistance to all Reserve and National Guard Servicemembers.

Members of the Air National Guard, Navy Reserve, Marine Corps Reserve, and the Coast Guard Reserve are currently eligible for Federal Tuition Assistance under

certain circumstances or duty statuses, but they do not always have access to this benefit due to lack of funding. Tuition assistance is typically available to Reserve Component members when they go on an active duty tour, but ROA found that the Marine Corps Reserve is the only branch not to receive tuition assistance when ordered to active duty.

The Department of Defense has long placed a premium on the education of the force. This emphasis is reflected in the recruitment of those with high school diplomas. Getting and growing a military force up to the national security environment's growing complexities is quite a challenge. It is also an absolute necessity.

Britain's Sir William Francis Butler, a 19th century lieutenant general, said, "The nation that makes a great distinction between its scholars and its warriors will have its thinking done by cowards and its fighting done by fools."

We need smart warriors.

In accordance with the 2017 Department of Defense study on Military Demographics, more than 683,063 enlisted reservists currently serve the U.S. military. Of them, 96.7 percent have a high school diploma or higher, 7.1 percent higher than the civilian the U.S. population aged over 25 years. Only 20 percent of enlisted reservists have an associate degree or higher.

According to the Military Times report from July 2018, over 23 percent of U.S. reservists currently use educational benefits. Tuition assistance could be used as a recruiting and retention incentive for all branches of the Reserve and National Guard.

America cannot attract and retain a strong Reserve force if it cannot accommodate the success of its members who must find, hold, and grow in their civilian jobs; raise families; and still serve their nation in uniform.

It is not unusual for a job to require postsecondary education. It is vital that reservists have the ability to get the education they need to ensure they remain atop the employment peak.

Further, according to Air Force Handbook 36-2618, par. 3.1.3.1, to reach the senior enlisted ranks of senior master sergeant and chief master sergeant in the Air Force, Air Force Reserve and the Air National Guard, servicemembers must hold an associate degree or higher to be eligible for promotion. Due to this requirement, all airmen should be provided tuition assistance.

We urge Congress to allocate funds to all of the Reserve Components for Federal Tuition Assistance to recruit and retain servicemembers.

SERVICE MEMBERS CIVIL RELIEF ACT

Military Service

Under 50 U.S.C. §§ 3911 (SCRA) members of the Reserve and National Guard are not protected under this act while performing training and other types of duty not included in the section below. Why not? Much of the training of Reservists and Guardsmen is in the performance of their jobs; they should be covered under SCRA. Not doing so puts the obligation of protection on the states.

The term "military service" means-

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard-

(i) active duty, as defined in section 101(d)(1) of title 10, and

(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

All states have passed state level protection acts but they did not include jurisdiction within the law at the state level nor is there any relief at the Federal level. In most cases, it is difficult for servicemembers to find the help they need to ensure they are not unfairly treated within the court system while unavailable, such as when deployed. Members of the RC have the same training requirements as their AC counterparts and often their courses are scheduled months out. Rescheduling is difficult. They are also not protected when called to active duty for state emer-

gencies. State emergencies mean that Reserve and National Guard personnel are often called to duty with little or no notice.

Once a judgment has been rendered, a servicemember has 30 days to revisit the judgment. This will take a well written motion. Very few servicemembers have the ability to properly address this issue without the aid of an attorney. If the judgment is not vacated, there are two options:

1.If no final decision has been reached, the servicemember will have to request an inter-locutory appeal (this also takes a well written motion and the servicemember must prove prejudice of the court).

2.If there is a final decision, the servicemember will have to file an appeal (this is a lengthy written process that must be formatted correctly and argued appropriately).

Neither of these options are easily accomplished and usually take years of practice. Most of the time servicemembers are forced to hire an attorney. The average coast of an attorney is \$350.00 per hour. An appeal of this size will take on average about 10–15 hours to complete, and that is if the attorney is familiar with the case.

The amendment to this act has allowed civil attorneys to exploit Reserve and National Guard personnel. They can bring emergency motions and schedule appearances during times of unavailability rendering a default judgment that the servicemember has little if any time (or money) to reconcile.

This amendment could have devastating consequences on RC personnel careers. Reserve Component Servicemembers put their lives on hold to meet the requirement of today's military and this amendment adds undue stress to their already stressful occupation. These patriots need to know they are taken care of at home when they leave for training.

RECOMMENDATIONS:

Amend 50 U.S.C. to include the following types of duty:

- Reserve and National Guard personnel performing Inactive Duty for training
- Reserve and National Guard personnel performing Annual Training
- Reserve and National Guard personnel attending training under 29 days
- Reserve and National Guard personnel performing service due to emergency not ordered by the President

A new amendment would also need to include a jurisdiction, i.e. a Department of Justice district attorney will write a motion to the court and explain protection.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

Forced Arbitration

Employer Support of the Guard and Reserve is very engaged with employers and has found that mediation is not always a promising route to servicemember protections.

The Department of Labor, Veterans' Employment and Training Service report stated, "During FY 2018, ESGR received 17,568 contacts by telephone and email, of which 1,655 contacts resulted in actual USERRA mediation cases. ESGR's mediation efforts covered an array of USERRA-related issues that included 1,033 complaints involving some type of military discrimination; 602 complaints involving job reinstatement; and 20 complaints involving possible retaliation or reprisal. There were 429 USERRA mediation cases in which ESGR was unable to facilitate an agreement between the employee and employer." Suffice to say employment/unemployment requires ROA's continued attention.

Under the Uniformed Services Employment Rights Act of 1994, veterans and servicemembers have some protections from discrimination based on their military service; they have the right to return to their civilian jobs once their active service ends. But, as in many other areas of employment law, Federal courts have dismissed USERRA legal claims where the plaintiff has been forced to sign an agreement requiring that employment-related legal claims to go to arbitration. Arbitration is an alternate dispute resolution method that, depending on how it is used, can be very pro-employer and anti-employee.

Arbitration is a type of private proceeding that results in a decision concerning a matter in dispute between the employee and employer. Normally, the employer chooses an arbitrator or a panel of arbitrators who sit as judge and jury. This creates an incentive for arbitrators to decide in the employer's favor so they can make more money handling future cases for the employer.

Depending on the wording of the agreement, the arbitration process can present significant drawbacks for employees. In some cases, the employer pays for the arbitration, but in others, the parties could split the costs, or the party losing the case could pay for the arbitration and possibly the fees and costs incurred by the winning party. In some cases, the parties are required to keep their dispute private, so the proceedings cannot be disclosed. The ability of the parties to obtain evidence can be restricted. It can also be very difficult to have such an agreement ruled invalid by a judge or have an arbitration ruling overturned in the court system.

OTHER

Toxic Exposure: Recognition of Illnesses Caused by Hazardous Warfare Agents

ROA urges Congress to enact legislation recognizing exposure to toxins as a service-connected disability for servicemembers including, but not limited to, Korea, Vietnam, the Gulf War, Iraq, Afghanistan, Camp Lejeune, and Canada.

Military members who leave the service through separation or retirement under conditions that are other than dishonorable are eligible for a service-connected disability. While the application for disability may be long it is simply done by the service member proving they were “disabled by an injury or illness that was incurred or aggravated during active military service.”

Presumption of service connection is important because a servicemember’s symptoms may not manifest until after well after their service is completed. According to the Congressional Research Service, “. . . where the manifestation of the disabling disease or condition is remote from the veteran’s service and any relation between the disability and service is not readily apparent, the burden of proving service connection can be a challenge.” Historically presumption has been linked to exposure to toxins.

Proving presumption of service connection is difficult because it is hard to determine the connection between exposure and the disability as there is often no documentation in the military health record. This can occur when symptoms don’t appear until after the servicemember leaves the service. There can also be a situation where the symptoms are so mild at the beginning that the servicemember does not go to sick call for treatment.

ROA believes that there should be an additional approach to determining presumption which is a costly process. Rather efforts should be made to avoid presumption by beginning the collection of health issues immediately upon identification of possible toxins. While not always possible, this approach could certainly reduce the need for some presumptions.

For example, if the Department of Defense had annotated the medical records of servicemembers exposed to burn pits in OIF/OEF, then VA would have had years of data collection related to their health. Presumption is a judgment backed up with as much scientific research as possible; data capture helps enhance the integrity of that judgement.

By beginning the “presumption” process upon exposure or recognition of a health matter, DoD could then look for ways to reduce exposure, such as with OSHA standard equipment or changed processes.

Under the best of circumstances it is hard for a Reserve Component member to be recognized for service-connection but a presumption makes it near impossible.

Continuity of Care: Establish Continuous Health Care Coverage

ROA along with many other associations has supported extending TRICARE Reserve Select to military technicians as a recruiting tool for the services as well as to ensure their access to affordable health care. When we started working this with the Senate, that body decided it would only be fair to extend it to all National Guard and Reserve Federal employees and not just a limited category of employees. Of course, the biggest hurdle is the appropriations offset.

TRS came about to increase the readiness of Reserve Component servicemembers during the early years of the 9/11 activations. ROA believes that health care legislation and policy should be approached in terms of readiness for the servicemember and a benefit for the family that indirectly enhances readiness. We also have other concerns about health care for the Reserve Components:

- Military health care records are scattered over several locations (duty station, TDY locations, civilian providers) making it hard, if not impossible, to monitor deployable standards.
- Difficulty getting annual physicals during drill weekends due to insufficient manning or personnel.

- Losing health care coverage when an individual's duty status and/or orders change, triggering a different TRICARE program.
- Length of time to complete medical evaluation boards.
- Difficulty processing lines of duty determinations, due to the complexity of the process and levels of review required and proving when the injury occurred.
- Inability to provide rapid care to injures due to processing time. This cause longer periods of nondeployability.
- Servicemembers inability to receive service-connected recognition from the VA. The lack of a centralized health record for the RC results in incomplete health records. This can occur from scattered records, as mentioned above, but it also results in medical events not being recorded.

With the well-established use of the RC as an operational force, its readiness is an imperative and the lens through which ROA appraises its health care. A proper fix to these issues, and thus an enhancement of readiness, would be to cover every participating Reserve Component member under TRICARE Prime. This would consolidate health care records into one program and increase the ability to monitor deployable standards. Any annual physicals, shots, etc. would not have to be crammed into a drill weekend, and unit administrators would not have to spend hours or days of chasing servicemembers around to ensure they are properly cared for. This would free up valuable training time. It would also ensure a medical record in its entirety is transferred to VA.

When servicemembers are injured when performing duty, it is called a "line of duty" injury. While the servicemember will be covered under TRICARE, it takes time to ensure the processes are completed correctly. An RC member's injuries must be determined to be service-connected by a line of duty determination. Until the LOD approves, the service members injuries cannot be treated by the military. As the servicemember waits for the administrative process to approve their treatment they remain undeployable and unable to train.

Depending on the injury the servicemember may not be able work in their prospective civilian employment. This can cause a huge financial burden at home. The LOD evaluation can take in excess of 1,500 days according to a senior Department of Defense advisor.

ROA agrees that maintaining deployable status requires a commitment to health care coverage and promoting wellness. We also know the eligible recruiting pool is getting smaller, so it only makes sense to keep ready those already in uniform. Time and again we hear our military's senior uniformed and civilian leaders assert that ours is a "total force." Those words have meaning. A single health care option of TRICARE Prime for the RC servicemember is the only way to ensure readiness and eliminate the readiness-sapping complications of a multi-tiered health care program.

A continuous health care program with an integrated record would help Reserve Component members be recognized for service connection.

DD Form 214: Issue upon Retirement/Separation from the Reserve Component

There is no document that includes all RC service - active and inactive. We have found that, according to VA Pamphlet 26-7, "there is no one form used by the Reserves or National Guard that is similar to a DD Form 214" that meets "Proof of Service Requirements" (Chapter 2). This complicates the ability of RC servicemembers to access VA benefits.

The current process for issuing the DD Form 214 for the National Guard and Reserve disregards transitions across the continuum of service between active and reserve duty. Gaps of months and years appear. The lack of a DD Form 214 being issued on a predictable basis inhibits RC servicemembers from claiming earned benefits and proving the full scope of their military service. Additionally, when an RC member does receive a DD Form 214 upon completion of active service after 90 cumulative days of service, or any deployment order, the form often does not include the entire spectrum of their service. This makes it difficult for RC members to show they have earned various Federal and state benefits.

Due to the nature of AC and RC orders, servicemembers often do not meet the minimum requirement of 90 consecutive days of active duty necessary to receive a DD Form 214. Complicating the process further, National Guard servicemembers can transfer between states, known as Interstate Transfer, but the records don't always follow. Critical service-related documentation often remains in the issuing state. Human error and convoluted personnel system can cause orders to be incorrectly documented or not documented at all. The result of the current disaggregated personnel system results in many servicemembers receiving only a portion of their benefits.

ROA has learned that DoD is considering a halfway measure called a DD-216 to address what it recognizes as a problem. Characteristically, the Pentagon, with its AC focus, has devised a separate record for the RC, that will certainly ensure inequitable treatment of the RC within the so-called “total force.”

The real solution is to make the minimal amendments to the current DD-214 to include the types of inactive duty engaged in by members of the RC. It's that simple, and the result is a unified “total force” document that makes sense, is universally useful, and requires little bureaucratic development.

Specifically, the amendments would include service performed for inactive duty and inactive duty for training. They would need to be added to the service section.

CONCLUSION

ROA appreciates the opportunity to offer thoughts regarding these important issues. Because of the unique nature of service in the Reserve Components, its members may simultaneously receive care and benefits from VA, the Department of Labor, HHS, and DoD.

All too often military and veterans' law and policy are developed without an understanding of, or appreciation for, the important distinctions between reserve and active duty service. The members of the Reserve and Guard invariably lose out . . . and so too do their families. And thus the nation.

America is experiencing unprecedented challenges to our security and greater reliance on the Reserve and National Guard. Enhancing the readiness of these wonderful human assets as they move in and out of their military and civilian roles, from peace to war and back again, helping them gain access to care, and helping their families thrive - all these pieces of legislation directly or indirectly enhance readiness and represent an insightful and praiseworthy focus on those patriots we call our citizen-warriors.

Members of the RC are veterans, like their AC counterparts. Unlike the AC, they do not go to the VA only upon separation or retirement. They use the VA throughout their military career. We recommend VA begin their relationship with the RC long before separation or retirement. The VA should reach out to RC servicemembers during drill weekend and annual training. On education benefits, home loans, health care/service connection, and employment, they need and have earned information, uniform standards, and broad choices.

ROA is proud to advocate for their interests, which are truly the interests of our nation.

