



**OFFICIAL STATEMENT OF
MAJ. GEN. JEFFREY E. PHILLIPS, U.S. ARMY (RET.)**

**FOR THE
U.S. HOUSE AND SENATE COMMITTEES
ON VETERANS' AFFAIRS**

**ON
POLICY PRIORITIES FOR 2024**

MARCH 29, 2024

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The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America, is a military service organization incorporated under Internal Revenue Service Code section 501(c)(19), and comprising all ranks of servicemembers, veterans, and family members of our nation's eight uniformed services separated under honorable conditions. ROA is the only national military service organization that solely and exclusively supports the reserve components.

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.

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DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America, has not received any grants, contracts, or subcontracts from the federal government in the past three years.

CURRICULUM VITAE

Jeff Phillips became the executive director of the Reserve Organization of America (ROA) on December 8, 2014.

Now retired from the U.S. Army, Major General Phillips last served as the deputy commanding general (U.S. Army Reserve) of the Army's Training and Doctrine Command, at Fort Eustis, Va. In this position, he was responsible for ensuring that the Army Reserve's requirements and capabilities were reflected in Army training and training doctrine.

His decorations include the Distinguished Service Medal, two Legions of Merit, two Bronze Star medals and the Army Parachutist Badge.

INTRODUCTION

Chairmen Bost and Tester and Ranking Members Takano and Moran, on behalf of the Reserve Organization of America, the only national military organization that solely and exclusively supports the Reserve and National Guard (referred to as the reserve components), thank you for the opportunity to submit a written statement for the record on our policy priorities for 2024.

ROA also thanks you for the opportunity to provide witness testimony before a joint hearing in 2025.

Since 1922, the Reserve Officers Association, now doing business as the Reserve Organization of America to reflect an all-ranks membership, has relentlessly worked with defense and veterans' leaders, policy makers, and industry partners to ensure the reserve components are strong and ready and reserve component service members and their families are well cared for.

The founders of ROA, veterans of World War I led by General of the Armies John J. "Black Jack" Pershing, believed sentiments of complacency and isolationism during times of "peace" would leave America vulnerable to military unpreparedness.

As the political and national security context has changed over the past century, ROA has remained committed to its original mission, stated in our congressional charter as "... to support and assist in the development and execution of a military policy for which the United States shall provide adequate National Defense."

This mission primarily involves advocacy for law and policy that sustains military readiness by ensuring the reserve components are well equipped, manned, and trained. However, it also includes ensuring the nation fulfills its responsibility "to care for him who shall have borne the battle, and for his widow, and his orphan."

Unlike their active duty counterparts, members of the Reserve and National Guard must frequently make military to civilian transitions throughout their time in service. This presents unique challenges to overcome and additional responsibilities to shoulder.

Unfortunately, current laws, policies, and programs intensify these challenges and make such responsibilities more difficult to manage.

Examples of this include a TRICARE system that forces reserve component service members and retirees to pay substantially more for healthcare, inequities in accessing service-earned benefits such as disability compensation from the Department of Veterans Affairs (VA), and a Transition Assistance Program (TAP) that fails to meet the needs of reserve affiliated participants.

ROA is prepared to offer its technical assistance and expertise on all priorities that relate to military readiness and the unique needs of the reserve component community.

That said, most of this written statement focuses on those priorities that ensure the care and wellbeing of veterans of reserve component service and their families and caregivers.

EXECUTIVE SUMMARY

- ✓ ROA urges Congress to see funding for veterans' programs as an obligation.
- ✓ While ROA is pleased with the results of the PACT Act thus far, ROA urges a bi-partisan, bi-cameral reconciliation of differences regarding the Toxic Exposure Fund that does not detract from the VA's ability to implement the PACT Act.
- ✓ ROA urges support for establishing a presumption of service connection to those service members who were in the Pentagon on 9/11 and were forced to come back to work beginning as early as the very next day.
- ✓ ROA urges support for reforming TAP to meet the needs of reserve affiliated participants.
- ✓ ROA urges support for H.R.7543/S.3873, the *Guard and Reserve GI Bill Parity Act*.
- ✓ ROA urges support for H.R.7323, the *MGIB-SR Tuition Fairness Act*.
- ✓ ROA urges support for H.R.6225, the *Expanding Home Loans for Guard and Reservists Act*.
- ✓ ROA urges support for H.R.5516, the *Justice for Servicemembers Act*.
- ✓ ROA urges support for H.R.5114, the *GRAVE Act*.
- ✓ ROA urges support for H.R.4244/S.2076, the *SERVE Act*.
- ✓ ROA supports the desired end-state of H.R.1799, the *EMPLOY VETS Act*; however, requests further information.
- ✓ ROA urges Congress to confer veteran status (to achieve federal hiring preference) on reserve component members after 180 "cumulative" days on active duty, as opposed to 180 "consecutive" days.
- ✓ ROA urges the establishment of an Interagency Task Force on Reserve Component Benefits and Resources through legislation.
- ✓ ROA urges support for compelling the VA Secretary to ensure that patients prescribed black box warning drugs provide written informed consent prior to any authorization or agreement to undergo such medical treatment and that the VA be required to include caregivers in the written consent process.
- ✓ ROA urges Congress to amend Title 38, U.S.C., Sec. 1710 to provide reserve component service members that have spent 180 cumulative days on active service, which includes drill weekends and active duty for training, with access to hospital, nursing home, and domiciliary care.

PROVIDE ADEQUATE AND ON-TIME FUNDING FOR THE VA

While ROA's primary commitment is to ensure a strong and ready reserve force, there is a nexus between caring for veterans and their families, institutional integrity, and recruiting and retention.

This relationship is not limited to policy and regulatory outcomes, but also extends to the institution's willingness to act decisively on behalf of those serving in uniform.

Put differently: if the nation is unable or unwilling to properly care for fathers, mothers, and families of military service, why would America's sons and daughters enlist in the future?

ROA also believes that caring for veterans is part of the cost of having a military and waging war. It **is not** an afterthought to be indulged in when budgetarily convenient.

As such, ROA urges Congress to see funding for veterans' programs as an obligation, and that VA, the Department of Labor (DoL), and other agencies charged with providing such care and benefits do their job.

To do its job in Fiscal Year (FY) 2025, the VA is requesting \$369.3 billion, a 9.8 percent increase from the previous FY.

This includes \$134 billion in discretionary funding (a 6.2 percent decrease from the previous FY) and \$235.3 billion in mandatory funding (a 21.6 percent increase from the previous FY).¹

According to the VA, the budget request "will provide the necessary resources to meet VA's commitment to deliver timely access to world-class health care and earned benefits to Veterans."²

Regarding whether VA's FY 2025 budget request is adequate, ROA urges the House and Senate Committees on Veterans Affairs and Appropriations to use the Independent Budget Recommendations for the VA for FY 2025-2026³ as a primary resource.

That said, the biggest impediment to ensuring the VA (and the federal government at-large) is equipped to execute its mission is Congress' consistent inability to supply on-time funding for the government.

Unfortunately, the federal government has only been funded on-time three times in the last 48 Fiscal Years (FYs): most recently, in FY 1997.⁴

In the 118th Congress alone, ROA has joined forces with four other military associations on three separate occasions urging the passage of full year appropriations bills.

This is simply unacceptable. Congress must break the cycle.

¹ <https://news.va.gov/press-room/va-fy-2025-budget-veterans-families-caregivers-survivors/>

² <https://department.va.gov/wp-content/uploads/2024/03/fy-2025-va-budget-in-brief.pdf>

³ <https://www.independentbudget.org/wp-content/uploads/2024/02/Independent-Budget-2024-FY2025-2026.pdf>

⁴ <https://www.gao.gov/assets/gao-22-104701.pdf>

IMPLEMENT THE PACT ACT

ROA was the only military association to sleep on the Capitol steps alongside toxic-exposed veterans and patriotic Americans as part of the 72-hour “fire watch vigil” that ensured the codification of Public Law No: 117-168, the *Sergeant First Class Health Robinson Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022*.

Not only did the PACT Act as written expand healthcare and benefits to an estimated five million toxic exposed veterans⁵, but it also made significant investments in VA’s staffing and infrastructure to ensure its implementation and alleviate anticipated strain on the VA system at-large.

To date, more than 800,000 PACT Act claims have been approved (at a 75.1 percent approval rate), more than one million claims have been completed (with an average completion rate of 162.9 days), and more than five million toxic exposure screenings have been administered.⁶

This information is courtesy of the March 15, 2024, edition of the VA’s *PACT Act Performance Dashboard*, which ROA sees as a helpful tool to gauge the PACT Act’s impact on veterans and the VA.

While ROA is pleased with the results of the PACT Act thus far, ROA has concerns regarding the Toxic Exposure Fund (TEF); specifically, its unintended impact on the advancement of other initiatives improving access to VA healthcare and benefits.

To resolve this, ROA urges a bi-partisan, bi-cameral reconciliation of differences regarding the TEF that does not detract from the VA’s ability to implement the PACT Act.

EXPAND PACT ACT PROTECTIONS TO CERTAIN ELIGIBLE 9/11 SURVIVORS

At 9:37 a.m. on September 11, 2001, American Airlines Flight 77 crashed into the Pentagon, killing all 64 people on the plane and 125 people in the Pentagon. Flight 77 was the third plane to strike its target that day.⁷

Shortly after the attack, Secretary of Defense Donald Rumsfeld held a news briefing at the Pentagon to tell the world what had happened. Secretary Rumsfeld spoke on the importance of ensuring the continuation of operations at the Pentagon, beginning as early as the very next day.

⁵ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/02/fact-sheet-pact-act-delivers-on-president-bidens-promise-to-americas-veterans/>

⁶ https://department.va.gov/pactdata/wp-content/uploads/sites/18/2024/03/VA-PACT-Act-Dashboard-Issue-29-031524_FINAL_508.pdf

⁷ <https://history.defense.gov/Portals/70/Documents/pentagon/Pentagon9-11.pdf>

“It's an indication that the United States government is functioning in the face of this terrible act against our country. I should add that the briefing here is taking place in the Pentagon,” said Rumsfeld. “The Pentagon's functioning. It will be in business tomorrow.”⁸

With that announcement, thousands of dedicated employees arrived for work at the Pentagon on Sept. 12, 2001.

Unfortunately, those who returned were exposed to these toxicants⁹:

- Cement dust
- Glass fibers
- Asbestos
- Crystalline Silica
- Metals
- Polycyclic aromatic hydrocarbon
- Polychlorinated biphenyls
- Pesticides
- Dixons
- Mold
- Lead

The initial concern following the impact was regarding the effects of the fire and associated toxic fumes. However, after the fire was controlled and extinguished, additional concerns became evident, including asbestos sand lead contamination; surface contamination from residues resulting from of the fire; lingering air contamination; and the potential compromise of the water system.¹⁰

To Congress' credit, there are programs that provide healthcare and other forms of support to 9/11 survivors and first responders (the World Trade Center Health Program and September 11th Victim Compensation Fund).¹¹ Also to Congress' credit, the VA strives to assist millions of toxic exposed veterans.

However, one cohort still left behind are those active and reserve service members who were in the Pentagon on 9/11 and were forced to return to work at the Pentagon.

Retired Air Force Lt. Col. Susan E. Lukas shared how her exposure to toxicants at the Pentagon continues to impact her mental and physical health:

“Feeling the impact of the plane and seeing the dark plums of smoke and debris was an experience I will never forget. There were many people who had difficulties getting out of the building. Those who did get out saw horrific things. A woman who was picked up out of the rubble cried hysterically about seeing a ball of flame coming down the corridor in her direction.

⁸ <https://www.americanrhetoric.com/speeches/donaldrumfeld911pentagonpresser.htm>

⁹ <https://history.defense.gov/Portals/70/Documents/pentagon/Pentagon9-11.pdf>

¹⁰ <https://pubmed.ncbi.nlm.nih.gov/12363145/>

¹¹ <https://www.cdc.gov/wtc/vcf.html>

Everyone in her office died. At first, we weren't thinking about our health. We were just happy to be alive. My supervisor required me to come back to the Pentagon for work beginning the very next day. For years, I did not realize my health issues were related to the 9/11 Pentagon attack. I actually discovered how that impacted my health by accident. In part, this was because I was relying on military doctors who were not trained in how to treat and identify toxic exposure. However, it's also the case that I was relying on military doctors who served in a military that did not identify us as a cohort for toxic exposure. After experiencing persistent and significant difficulties with swallowing and breathing, I went to a doctor and was diagnosed with tracheomalacia. My doctor said off handedly that I was 'very young to have this condition' and that I was the 'fourth patient in recent time' suffering from this condition. I asked my doctor if those individuals had been at the Pentagon on 9/11. It was almost as if my doctor had an epiphany when he answered 'yes.' One of the reasons I had to quit my job was because of the impact that my diagnosis had on my breathing. But the truth is, that was just the tip of the iceberg. Aside from strong flashes of PTSD, my toxic exposures, in the absence of any protection from the VA, have impacted my day to day life. I even had to purchase a special iodizing system to purify the air in my house, which cost me thousands of dollars. It's no exaggeration to suggest that every action I take is designed to overcome the health challenges posed by my time in the Pentagon on and after 9/11.”

Lt. Col. Lukas' story is unfortunately one of many, as evident by the exchange she had with her doctor.

To recognize the patriotic service of those bravest among us during the 9/11 terrorist attacks, ROA urges support for establishing a presumption of service connection to those service members who were in the Pentagon on 9/11 and were forced to come back to work beginning as early as 9/12.

Supported by ROA Resolution No. 22-38

SUPPORT ROA'S DELIVERING RESERVIST INTEGRATION AND VETERANS EDUCATION (DRIVE) PLAN

The Transition Assistance Program (TAP) has a significant role in ensuring service members and their families are equipped to manage the transition from military to civilian life.

However, unlike their active component counterparts, reserve component members and their families must frequently make this transition prior to separating or retiring from military service.

Complicating this further is that some reserve component retirees, referred to as “gray area” retirees¹², are forced to wait many years before they can receive their service earned retirement benefits, including retirement pay and healthcare under TRICARE.

This presents unique challenges to overcome and additional responsibilities to shoulder.

¹² <https://www.dfas.mil/RetiredMilitary/plan/Gray-Area-Retirees/>

Despite this, TAP **is not** structured to meet the military to civilian transition needs of citizen-warriors and their families.

This fact was recently validated by a RAND report required by Senate Report 114-255, which directed the Department of Defense to research the transition experiences of Reserve and National Guard service members and make recommendations to the Senate Committee on Armed Services on how to better meet their transition needs or, alternatively, suggest a program specifically designed for the reserve components (which it did).¹³

ROA provides the following excerpts from the report for joint-committee consideration, which capture numerous challenges reserve component members and their families face throughout their many transitions between military and civilian life:

- “Many reserve component members feel that, in its current form, TAP does not adequately address reserve component needs.” (page vii)
- “. . . research has demonstrated that some reserve component members experience difficult transitions back to civilian life after prolonged active military service of 180 consecutive days or more.” (page 1)
- “Unfortunately, for many reserve component members heading back to college, their schools do not provide specific guidance or programming to address their particular needs.” (page 14)
- “Research shows that reserve component members desire more time than they received to readjust to their civilian lives.” (page 15)
- “. . . service providers noted that reserve component members need assistance in better understanding the details of the GI Bill.” (page 17)
- “Service providers noted that TAP course content could be better suited to address reserve component members’ needs.” (page 19)
- “. . . the needs of reserve component do not end once they have fully transitioned from the military to civilian world.” (page 21)
- “The retiring reserve component subpopulation is more dispersed and less connected to their represented services, especially for those members for whom there is a gap in active service between meeting their 20-year service requirement and reaching retirement age.” (page 23)

Also validated by the RAND report was TAP’s “one-size two-components” construct, which places reserve component members in a position where:

- They may not qualify for TAP and must partake in unorganized, nonstandardized out-processing.
- They are required to participate in TAP many times with diminishing returns.
- Commanders question their readiness.
- The information received through TAP is not tailored to their needs.
- The location and timing of TAP is inconvenient at best and obstructive at worst.

¹³ https://www.rand.org/content/dam/rand/pubs/research_reports/RRA2000/RRA2071-1/RAND_RRA2071-1.pdf

ROA believes this must be solved - and it must be solved quickly.

To solve this, ROA proposes the following five-step plan:

1) Amend TAP's eligibility requirements.

To participate in TAP, service members must have spent 180 **consecutive** days on active duty. Unfortunately, this requirement leaves many members of the Reserve and National Guard behind.

ROA recently spoke with a retired Air Force master sergeant who described in detail his separation and retirement experience in the absence of TAP:

“At the beginning of my out processing, I was given a bunch of literature and told to ask questions if confused. If done right, retirement is something you do only once. So, going in, I didn't know exactly what questions to ask. Frankly, I only really learned those questions when going through the motions. I've been out for a little over a year now and I'm still learning. It would have been nice to sit down in an auditorium or seminar just to make sure I was doing everything I had to do and to learn more about my benefits.”

To ensure adequate access to pre-separation counseling and instruction, ROA urges support for amending existing law to allow reserve component members that serve 180 **cumulative** days of active service (which includes drill weekends and active duty for training) to participate in TAP.

2) Provide reserve component members who take TAP multiple times with diminishing returns the opportunity to opt out of their TAP requirements (with thoughtful consideration given to the timing of such a request).

The automatic participation requirement (triggered whenever a service member spends 180 consecutive days on active duty) may also consequently impact certain reserve component members by forcing them to go through TAP multiple times with diminishing returns.

ROA recently spoke with an Army National Guardsman who, for example, was forced to take TAP while deployed in Syria. In a candid conversation, this Guardsman described the TAP experience as “death by pointless PowerPoint.”

A draft act considered at a hearing held by the House Veterans Affairs Economic Opportunity Subcommittee on March 20 included a provision that allowed all reserve component members to opt out of TAP if they had taken TAP in the preceding three years.¹⁴

Although ROA did not support the bill as written, ROA appreciated the consideration this provision granted to those members required to participate in TAP at an inconvenient time and location and for a non-useful purpose.

However, in its March 20 statement for the record for the hearing, ROA urged amending the provision to require reserve component members seeking the waiver (and their spouses) be

¹⁴ <https://docs.house.gov/meetings/VR/VR10/20240320/116962/BILLS-1183722ih.pdf>

properly educated and informed on any changes to TAP's elements prior to following through on the waiver request.¹⁵

ROA further urged consideration of now allowing the waiver in the case of an anticipated retirement or separation, or a retirement or separation for disability.

3) Add reserve component focused matters to the TAP preseparation checklist and process.

Preseparation counseling is vital to the military to civilian transition process. Not only must the topics covered relate to the needs of the service member and their family, but the counselor(s) must also be equipped to understand those needs.¹⁶

While the current list of required matters covered in the preseparation process is thorough, there are still additions that can be made to better serve the reserve component community.

This includes, but is not limited to:

- An explanation of the circumstances under which the member may be subject to a retired recall to active duty;
- Information on financial planning assistance, including consumer protections afforded under the Servicemembers Civil Relief Act and Military Lending Act;
- Information, discussion, and counsel on pathways to obtain and properly use military service records for the purpose of accessing service earned benefits;
- Information, discussion, and counsel on pathways to report and document health conditions and duty status, during time in service and following separation from service, for the purpose of accessing service earned benefits; *and*
- Information and discussion on the Retirement Points Accounting System, including verifying retirement point calculations and retirement benefits to which the member may be entitled to receive.

ROA urges support for these matters being covered and has draft legislative language that would accomplish this desired outcome.

4) Establish a reserve component curriculum track within TAP.

One of the reasons that Reserve and National Guard service members report diminishing returns on TAP is because its curriculum and processes are not catered to their needs at the time they exist.

A citizen-warrior going through TAP while coming off an intensive deployment, for example, is likely not “looking” for the same thing(s) as a citizen-warrior seeking retirement.

¹⁵ <https://docs.house.gov/meetings/VR/VR10/20240320/116962/HHRG-118-VR10-Wstate-SchwartzmanM-20240320.pdf>

¹⁶ Multiple “non-TAP service providers” recommended to RAND that “TAP instructors be ex-military members because they have firsthand experience in transitioning from the military to civilian life and personally understand the process.” Further, it was suggested that “effective” TAP instructors have “complementary employment experience outside the military” and “would be individuals who have successfully made the transition between from the military to the civilian world.” (page 20)

Further complicating this is the fact that the TAP curriculum is catered towards active-duty service members.

ROA spoke with Will H., a Marine Corps Reservist, who described this dilemma in greater detail:

“The last time I took TAP was when I got back from Afghanistan in 2019. My instructors had *zero understanding* of the reserve components. When I asked my instructor if there was any literature focused on the RC, I was given a blank stare.”

To overcome this, ROA urges support for the establishment of a reserve component curriculum track within TAP.

ROA envisions the curriculum track being structured around the unique battle rhythm of reserve service and how it impacts the member, spouse, and family.

This includes consideration of curriculum elements being accessible at the member and spouse’s election and administered virtually.

More specifically, the curriculum would administer and provide resources, services, counseling, and assistance for reserve component members and their spouses:

- Throughout each phase of the deployment cycle (as a complementary asset to DoD’s Yellow Ribbon Reintegration Program).
- Prior to and upon separation or retirement.
- Throughout retirement, including for “gray area” retirees.

ROA has draft legislative language that would achieve this desired outcome.¹⁷

5) Ensure military spouses are fully integrated in their service spouse’s TAP process.

The aforementioned draft proposal also contained a provision that established a pilot program for military spouses to receive one-on-one counseling on matters tailored to the spouse, with at least one hour of counseling covering the benefits and assistance available to military families and veterans.

ROA understands that military spouses have unique needs that must be met throughout the military to civilian transition process.

However, ROA believes military spouses (and by extension, military families) would be better served if they were further integrated into their service spouse’s TAP experience, as opposed to having their own separate counseling and curriculum.

Current law restricts preparation counseling access for military spouses.

ROA urges support for eliminating these restrictions, which can be achieved by adopting SEC. 1(e) of the aforementioned draft act.

¹⁷ https://cdn.ymaws.com/www.roa.org/resource/resmgr/legislation/delivering_reserve_integra.pdf

SUPPORT H.R.7543/S.3873, GUARD AND RESERVE GI BILL PARITY ACT

Under current law, reserve component members can accrue “qualifying days” toward receiving Post-9/11 GI Bill benefits if they have served at least 90 cumulative or 30 continuous days on active duty and are discharged with a service-connected disability or awarded the Purple Heart for service after September 10, 2001.¹⁸

Reserve component members must “wear the uniform” and perform their duty responsibilities for a minimum of 39 days each fiscal year. Unfortunately, these duty days cannot be accrued toward receiving Post 9/11 GI Bill educational benefits.

From ROA’s perspective, this puts members of the reserve components at a distinct disadvantage for receiving their service-earned Post-9/11 GI Bill educational benefits, subjectively values certain duty days in higher regard, and does not reflect the modern day battle rhythm of reserve component service.

In many instances, for the same training day, it is possible for an active component member to receive credit towards their GI Bill, whereas a reserve component member serving shoulder-to-shoulder would not.

H.R.7543/S.3873, the *Guard and Reserve GI Bill Parity Act of 2024* resolves this disparity by allowing reserve component service members to accrue all paid points days toward receiving the Post-9/11 GI Bill, whereas “all paid points days” includes days for training, active military service, inactive training, and general duty.

ROA thanks Reps. Mike Levin (CA-49), Juan Ciscomani (AZ-06), Trent Kelly (MS01), Andy Kim (NJ-03), Mark Takano (CA-49), Frank Mvran (IN-01), Mike Thompson (CA-04), Mike Lawler (NY-17), Derrick Van Orden (WI-03), and Chris Pappas (NH01) and Sens. Jerry Moran (KS) and Jon Tester (MT) for sponsoring this legislation (which passed the House last Congress) and urges your support for its codification in law.

SUPPORT H.R.7323, MONTGOMERY GI BILL SELECTED RESERVE TUITION FAIRNESS ACT

This bill, introduced by Rep. Van Orden (WI-03) and Rep. Morgan McGarvey (KY-03) directs the VA to disapprove courses offered by a public institution of higher learning not priced at the in-state tuition rate to Montgomery GI Bill Selected Reserve (MGIBSR) enrollees, regardless of their state of residence.

The MGIB-SR is the first GI Bill to provide educational and training assistance to eligible members of the Selected Reserve.

¹⁸ <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/>

As of FY 2023, the MGIB-SR program serves 39,849 enrollees, representing approximately five percent of the total GI Bill population.¹⁹

Title 38, U.S.C., Sec. 3679(c) requires the VA to disapprove programs of education for payments of benefits under the Post-9/11 GI Bill, Montgomery GI Bill-Active Duty (MGIB-AD), and Survivors' and Dependents' Educational Assistance (DEA) program if students are not charged in-state tuition, regardless of their state of residence.

This protection was most recently extended in 2021 to DEA with the signing of Public Law No: 117-68, the *Colonel John M. McHugh Tuition Fairness for Survivors Act*. However, it has not yet been extended to MGIB-SR.

The cost of attending public institutions of higher learning is continuing to increase for most students. So too is the gap between in-state and out-of-state tuition rates.

In fact, college tuition rates have increased by 153 percent in the last 40 years (when adjusting for inflation).²⁰ In the past 20 years, the difference between in and out of state tuition has grown by 38 percent.²¹

Requiring these institutions to charge in-state tuition under MGIB-SR, regardless of the student's state of residence, is essential to ensuring the solvency and sustainability of the VA's educational benefits program and the financial readiness of reserve component enrollees.

H.R.7323, the *MGIB-SR Tuition Fairness Act*, simply extends this existing protection to citizen-warriors enrolled in MGIB-SR.

ROA thanks Reps. Van Orden and McGarvey for sponsoring this bill and urges support for its codification in public law no later than the conclusion of the 118th Congress.

SUPPORT H.R.6225, EXPANDING HOME LOANS FOR GUARD AND RESERVISTS ACT

Affordable housing is now a serious national problem. Like most Americans, Reserve and National Guard service members and their families are facing significant challenges in finding affordable housing.

Unaffordable housing: fast facts

- As of 2022, median home prices and rents in America hit all-time highs.
- Data shows a 22 percent annual decline in the number of mortgages originated to first-time homebuyers in 2022, including a year-over-year drop in the fourth quarter (of 2022) of nearly 40 percent.

¹⁹ <https://www.benefits.va.gov/REPORTS/abr/docs/2023-education.pdf>

²⁰ <https://www.bankrate.com/loans/student-loans/college-tuition-inflation/>

²¹ <https://gradlime.com/in-state-vs-out-of-state-tuition/>

- Monthly payments on the U.S. median-priced home, including taxes and insurance, increased from \$2,200 in Jan. 2022 to \$3,100 in Oct. 2022 after the annual interest rate on 30-year fixed rate mortgages increased from 3.4 percent to 6.9 percent (resulting in millions of renter households being priced out of homeownership).²²

Public Law No. 116-135, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act*, expanded VA Home Loan eligibility to National Guard service members who perform “full-time” duty for at least 90 days, of which 30 are consecutive.

However, eligibility requirements still severely restrict reserve component service members from accessing the VA Home Loan program.

This bill expands eligibility to the VA home loan program for Reserve and National Guard service members who spend 30 or more consecutive days on active duty for training (ADT).

Like drill weekends, time spent on ADT is service to the nation.

ADT’s main purpose is to instill and ensure the skills required to support military operations or future mobilizations within the first 30 days of deployment.

ROA has long advocated that every day in uniform, including IDT and ADT, should count towards eligibility for many benefits, including the Post 9/11 GI Bill and TAP.

This call to action has intensified in recent times on pivotal programs designed to maintain the integrity of the All-Volunteer Force.

It has also intensified as the responsibilities shouldered by the Reserve and National Guard have increased in scale and significance in relation to national security and the cost of reserve service has increased, especially for junior enlisted service members.

Increased access to the VA home loan program will help sustain financial readiness and enable reserve component members and their families to have a solvent pathway towards home ownership, which ROA believes will help facilitate more favorable recruiting and retention conditions.

ROA thanks Reps. Jen Kiggans (VA-02) and Pat Ryan (NY-19) for sponsoring this bill and urges its swift codification in public law.

SUPPORT H.R.5516, JUSTICE FOR SERVICEMEMBERS ACT

The *Justice for Servicemembers Act* simply prohibits the use of forced arbitration of disputes covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Servicemember Civil Relief Act (SCRA).

²²https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf

Under USERRA, veterans and service members have some protection from discrimination based on their military service; they have the right to return to their civilian jobs once their active service ends.

However, arbitration is an alternate dispute resolution method that can be very pro-employer and anti-employee.

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 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. 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. This means that an employer can systemically and repeatedly violate the law, and no one will know about it. 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 because arbitration is generally not appealable.

This practice undermines USERRA and negatively impacts the career and financial readiness of those it seeks to protect.

Eliminating these forced arbitration requirements is common sense, from ROA's perspective, and merely seeks to reinforce the integrity and enforceability of USERRA and SCRA.

ROA thanks Ranking Member Takano for sponsoring this legislation and urges its codification in public law.

Supported by ROA Resolution No. 22-35

SUPPORT H.R.5114, GIVING RESERVISTS A VALIANT ETERNITY ACT

The tradition of military funeral honors renders the highest commemoration to those that have served the nation honorably.

In the words of former President George W. Bush, "Their sacrifice was great, but not in vain. All Americans and every nation on earth can trace their liberty to the white markers of places like Arlington National Cemetery."²³

²³ <https://www.nbcnews.com/id/wbna21738589>

Under current law, certain members of the armed forces can receive a headstone or grave marker from the VA at no cost.

However, the existing eligibility requirements put members of the Reserve and the National Guard at a disadvantage for receiving this benefit.

The *GRAVE Act* simply amends existing law to allow all members of the Reserve and National Guard to receive a VA furnished headstone or grave marker for their burial site at no cost.

All too often law and policy ration the delivery of service-earned benefits for citizen warriors (and their families) based on the amount of time they continuously spend on active duty. This causes disparities in the provision of these benefits, which fulfill a diverse set of purposes.

As President Bush highlighted, the markers at cemeteries like ANC are more than just a mold of granite, marble, or bronze. They are a symbol of the courage and commitment that those service members displayed to defend the nation and uphold the cause of freedom worldwide.

Without having equal access to such markers, surviving reserve component family members are potentially deprived of the opportunity to commemorate the passing of their loved one in alignment with customary military funeral honors. The American public at-large, and every nation on earth, is potentially deprived of the opportunity to “trace their liberty.”

As such, ROA urges your support for H.R.5114, the *GRAVE Act*.

SUPPORT H.R.4244/S.2076, SERVE ACT

Title 20, U.S.C., Sec.1091(c) excludes Reserve and National Guard service members on active duty orders of 30 days or less from “prompt readmission” into their institution of higher learning (IHL) under 34 CFR 66.18(a)(2).

This means that if a reserve component member of the armed forces is called to serve on active duty orders of 30 days or less, the member may be forced to disenroll from their educational institution prior to readmission.

They must also reapply to their IHL through the standard readmission process, prohibiting eligibility for the benefits of prompt readmission, which include (but are not limited to):

- Tuition at the same price as the semester they first enrolled in.
- Maintaining the same curriculum or degree program at the time of forced disenrollment.
- Preserving the same academic program at the beginning of the next semester.

While 21 states have closed this loophole, ROA believes that there ought to be national parity.

H.R.4244/S.2076, the *Servicemember Enrollment and Readmission for Valuable Education Act*, simply amends Title 20 U.S.C. 1091c(a) to allow all reserve component members of the armed forces called on active duty for any amount of time to receive “prompt readmission” under 34 CFR 66.18(a)(2).

ROA thanks Reps. Matt Cartwright (PA-08) and Mike Ezell (MS-04) and Sens. Cindy Hyde-Smith (MS) and Maggie Hassan (NH) for sponsoring these bills and urges your co-sponsorship of H.R.4244.

H.R.1799, ENSURE MILITARY PERSONNEL LEARN OPPORTUNITIES YIELDING VOCATIONS THAT EMPLOY TRANSITIONING SERVICEMEMBERS ACT

H.R. 1799, the *Ensure Military Personnel Learn Opportunities Yielding Vocations that Employ Transitioning Servicemembers (EMPLOY VETS) Act*, creates career opportunities for hundreds of thousands of veterans separating or retiring from military service.

Under current law, local and state DOL programs must wait for service members to leave TAP before approaching veterans about the programs they offer.

This bill simply amends the law to allow local and state DOL programs to conduct outreach during the service member's military to civilian transition and help "place" them into jobs and training programs before they leave the military.

ROA supports the desired end-state of H.R.1799: better military to civilian transition outcomes for service members.

However, ROA requests further information on the number of veterans that would be assisted (with tangible outcomes) yearly by the DOL programs specified under Title 38, U.S.C., Sec. 4013A and the impact this bill has on DOLs staffing capability.

EXPAND ELIGIBILITY FOR FEDERAL VETERANS HIRING PREFERENCE

Reserve component service members meet operational requirements by performing duty on a frequent basis but often for short periods of time.

Since September 11, 2001, more than one million reserve component personnel have served on active duty.

Because DoD limits many mobilizations to 179 or fewer days, many reserve component members complete their career without serving the 180 consecutive days needed for veteran status under Title 5 U.S.C. 2108, even when potentially aggregating several years of active service.

This occurs, in part, because of a desire from the services to avoid the costs associated with a Permanent Change of Station (duty over 180-days triggers PCS eligibility).

This cost avoidance technique prevents reserve component service members from achieving "veteran" status for federal hiring preference.

According to the 2021 Interagency Veterans Advisory Council annual State of Veterans in the Federal Workforce report, there are over 500,000 federal civilian employees who are veterans.

The percentage of veterans in the federal workforce hired with veterans' preference has increased from 84 percent in FY 2014 to 86 percent in FY 2018.

ROA urges Congress to confer veteran status (to achieve federal hiring preference) on reserve component members after 180 "cumulative" days on active duty, as opposed to 180 "consecutive" days, to expand access to an effective pathway towards post-military service employment.

Supported by ROA Resolution No. 22-36

ESTABLISH A RESERVE COMPONENT HEALTH CARE AND BENEFITS TASK FORCE

The U.S. Government Accountability Office (GAO) in an Oct. 30 report validated ROA's longstanding concern that members of the Reserve and National Guard face more obstacles to obtaining benefits from the Department of Veterans Affairs than their active-component counterparts.²⁴

The GAO study cited "Long-standing questions . . . about whether reserve component members' injuries or illnesses that occur on duty are properly reported and documented. This issue not only affects their access to medical care, but it may have downstream consequences if they later seek VA benefits for disabilities that result from those health conditions."

Validating those long-standing questions, VA officials told GAO "that for reserve component members who have not served on active duty [in other words they suffered the issue during training], not only must the event that caused the disability happen during service, but the member must show that the disability itself manifested during that service period. According to VA officials, this means that these reserve component members are generally not entitled to benefits for conditions that have a delayed onset or do not become disabling until after separation."

According to GAO, each year from 2012 through 2021, the VA approved 11 to 20 percent fewer initial disability compensation claims from members of the Reserve and National Guard than those in the active components. GAO found this within every service, from enlisted through officer ranks, in peace and war, across race and ethnicity.

One of the issues is that service members are not well informed about the VA disability system, itself a long-standing problem that only commanders can correct. However, the core issue is that reserve component members face distinct barriers to accessing their service earned benefits.

For example, not all reserve component members receive a DD 214 form when they are separated, discharged, or retired from military service.

Yet, VA and other federal, state, and local government agencies normally require veterans to provide a copy of the DD 214 form to qualify for veteran benefits. And despite the recent DoD

²⁴ <https://www.gao.gov/assets/d24105400.pdf>

announcement of a new DD Form 214-1 for reserve component members when they retire or separate from service, that form is not expected until at least 2025 (it should be available now).

To solve this unsustainable dilemma, ROA urges the establishment of an Interagency Task Force on Reserve Component Benefits and Resources through legislation.

ROA envisions the Task Force, on a biennial basis, reviewing relevant statutes, policies, regulations, programs, trainings, and services to provide recommendations for ensuring uniformed services reserve component members and their families have adequate access to benefits available under the laws administered by the VA.

ROA has draft legislative language that would achieve this desired outcome.²⁵

Supported by ROA Resolution No. 23-09

REQUIRE THE VA TO AUTHORIZE WRITTEN INFORMED CONSENT WHEN PRESCRIBING BLACK BOX WARNING LABEL DRUGS

A black box warning on prescriptions is the most serious type of warning that the Food and Drug Administration (FDA) gives to medication(s) which can have grave consequences to the health and wellbeing of veterans.

FDA Industry Guidance states “A persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions” or “A life-threatening adverse event” may occur from black box medications.

The Veterans Health Administration Handbook 1004.01(5), *Informed Consent for Clinical Treatments and Procedures*, provides for informed consent but **does not** require health care providers to obtain written informed consent.

Written informed consent simply ensures clarity throughout the prescription process for providers and patients.

It would also allow beneficiaries to work with their medical provider to find medical treatments that would not provide negative impacts to their military status, to them, or their ability to function.

For these reasons, among others, ROA urges your support for compelling the VA Secretary to ensure that patients prescribed black box warning drugs provide written informed consent prior to any authorization or agreement to undergo such medical treatment and that the VA be required to include caregivers in the written consent process.

Supported by ROA Resolution No. 23-03

EXPAND ELIGIBILITY FOR HOSPITAL, NURSING HOME, AND DOMICILIARY CARE

²⁵ https://cdn.ymaws.com/www.roa.org/resource/resmgr/legislation/delivering_reservist_integra.pdf

Title 38, U.S.C., Sec. 1710 determines eligibility for hospital, nursing home, and domiciliary care furnished by the VA.²⁶

It also provides the VA Secretary with the authority to provide such care to veterans not covered under the law “to the extent that resources and facilities are available.”

Unfortunately, the current eligibility criteria severely limit a reserve component veteran’s ability to qualify for such care.

Further, the VA Secretary is not required to exercise the exceptions-based authority granted.

In Illinois, for example, reserve component veterans are being denied access to state nursing homes, despite there being available beds.

Retired Lt. Col. David R. Spurrier, who served in the reserve components for 28 years, detailed the impact of this injustice in a statement recently submitted to ROA:

“I started my military career when I entered college by joining ROTC. I wanted to stay for 30 years but I was told as a Medical Service Corps officer I could only put in 28. I stayed in the military because I loved serving my country; and I loved the brotherhood that you felt serving alongside other soldiers in the military. Also, I thought with all the military classes I had to attend on active duty bases, I was under the understanding that I would have military medical coverage until I got out or at least age 60. I will not receive my medical coverage paid for by the military until I turn age 65. Also, after serving 28 years for my country and being on call several times for possibly going overseas to war, I am not able to reside in the Illinois Veterans Home. *For some reason, they do not consider me a veteran.*”

ROA also received a statement from retired Army Guardsmen CW3 Roy E. Hummelsheim Jr.:

“I was proud to have served my state and country and would do it all over again. The Guard was good for me and made me a better man. I do feel that I gave up much by being on call – footlocker packed and things in order. My family was incredibly supportive of me and gave up a lot. Missed out on family functions such as picnics, daughter’s dance recitals, weekend ventures and just time together. Despite this, I am ineligible to go into the [nursing] home, if needed, as they don’t count all the years I served because I was never called to ‘active duty.’ After serving in the Guard for 25 years, *I feel the state and U.S. government take us for granted.* Many in our unit, like me, feel the same way.”

Problems with properly defining the word “veteran” are prevalent in federal law. This is but one example.

To resolve this disparity, ROA urges Congress to amend Title 38, U.S.C., Sec. 1710 to provide reserve component service members that have spent 180 cumulative days on active service, which includes IDT and ADT, with access to hospital, nursing home, and domiciliary care.

Supported by ROA Resolution No. 21-05

²⁶ [https://uscode.house.gov/view.xhtml?req=\(title:38%20section:1710%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:38%20section:1710%20edition:prelim))

CONCLUSION

ROA thanks you again for the opportunity to submit a written statement on our veteran's policy priorities for 2024.

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 National Guard invariably lose out. And so, too, their families.

We look forward to collaborating with you further on these priorities and other areas of mutual interest for the remainder of 2024 and beyond, if necessary.

Inquiries on this statement can be directed to ROA's legislation and military policy director at mschwartzman@roa.org.