

**WRITTEN STATEMENT OF THE DEPARTMENT OF DEFENSE**

**FOR THE RECORD**

**REGARDING PENDING LEGISLATION**

**BEFORE THE**

**SENATE COMMITTEE ON VETERANS AFFAIRS**

**June 15, 2017**

Chairman Isakson, Ranking Member Tester, and members of the Committee, the Department of Defense (DoD or the Department) appreciates the opportunity to provide this statement for the record addressing legislation pending before the Committee. Given that the funding and administration of the Post-9/11 GI Bill fall under the purview of the Department of Veterans Affairs, this statement will focus on only legislation that will affect the Department of Defense; we defer to the Department of Veterans Affairs to provide responses on those bills with no significant DoD impacts.

**S. 111. Filipino Veterans Promise Act.**

This bill would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and military historians, to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain VA benefits despite not being on the Missouri List. The Department does not support any further legislation concerning determining service eligibility for the WWII Filipino Guerilla Veterans. The Army has a program in place that makes verifications. This program, due to its thorough processes, is the foundation for the Army's policy for making final service determinations for eligibility. The Department maintains complete confidence that the records and files completed in 1948 provide the best and most accurate determination of service.

**S 410. Shawna Hill Post 9/5 11 Education Benefits Transferability Act**

This bill would amend title 38, United States Code (U.S.C.), to authorize the transfer of unused Post-9/11 educational assistance benefits to additional dependents upon the death of an originally designated dependent.

The Department fully supports identifying ways to safeguard education benefits for Service members and veterans by ensuring additional dependents can use the benefit in the event of the death of the dependent originally designated. By closing this potential coverage gap, the benefit, which has already been earned, will not go unused.

However, given that both the funding and administration of this benefit fall under the purview of the Department of Veterans Affairs, DoD would defer to that agency to determine the costs and effects of the bill on their Department.

### **S 473. Educational Development for Troops and Veterans Act of 2017**

This bill amends title 38, U.S.C., to make qualification requirements for entitlement to Post-9/11 Education Assistance more equitable, to improve support of veterans receiving such educational assistance, and for other purposes. We will only comment on those provisions that directly affect DoD.

Section 2 amends the definition of qualifying active duty for the Post-9/11 GI Bill in section 3301(1)(B), title 38, U.S.C. to ensure that an order to serve on active duty under sections 12304a and 12304b of title 10 is treated identical to other orders to serve on active duty for determining the eligibility of members of the uniformed services and veterans for certain benefits, and for calculating the deadlines for certain benefits.

This bill would allow National Guard and Reserve Component (RC) members who are involuntarily activated under sections 12304a or 12304b of title 10 U.S.C., to receive the same benefits as those RC members who support comparable operations, but are activated under other authorities, such as section 12302.

Although the Department can support this provision, the Department is currently developing a more comprehensive solution as part of our Reserve Component Duty Status Reform effort. By enacting this legislation this cycle, Congress would resolve some of the most common RC duty status pay and benefit inequities in a more expeditious manner. However, the Department recommends making the change prospective only, due to the expected cost and complexity associated with implementation.

Given both the funding and administration of this benefit fall under the purview of the Department of Veterans Affairs, DoD would defer to that agency to determine the costs and effects of the bill on their Department.

Section 7 of the bill would amend the process for adjusting the monthly benefit for members of the Selected Reserve training under the provision of the Montgomery GI Bill – Selected Reserve (Section 16131(b)(2) 10 U.S.C.). Currently the Montgomery GI Bill – Selected Reserve (MGIB-SR) monthly benefit rate is annually increased by the Consumer Price Index (CPI) for the 12-month period ending on the June 30, preceding the beginning of the fiscal year for which the increase is made, while the Montgomery GI Bill (Chapter 30, 38 U.S.C.), monthly benefit is annually increased by the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year

preceding the beginning of the fiscal year for which the increase is made. This amendment partially aligns the process to determine the annual increase in the monthly benefit for the Montgomery GI Bill – Selected Reserve (MGIB-SR) with the process in place for annual increases in the Montgomery GI Bill, but rather than establishing the annual increase as a fixed rate, it allows a rate adjustment of “not less than the percentage by which.” This change will require a positive determination by the Secretary of Defense each year on the rate adjustment – whether to leave it at the rate of education increase, or whether a higher increase may be warranted. While the Department generally supports provisions that provide us such flexibility, since the increase in the cost of education generally outpaces the increase in the CPI, we would ask that the effective date be delayed to allow the Services to budget for such an increase.

#### **S 844. GI Bill Fairness Act 5 of 2017**

This draft bill would consider active duty performed under the authority of title 10, United States Code, section 12301(h), as qualifying active duty for the purposes of Post-9/11 GI Bill education benefits. Reserve component members wounded in combat often are given orders to active duty under this provision to receive authorized medical care, to be medically evaluated for disability, or to complete a required health care study. However, as currently written, section 3301(1)(B), of title 38, United States Code, does not include active duty performed under 12301(h) as qualifying active duty for purposes of Post-9/11 GI Bill educational assistance.

Currently, when a member of the Reserve Component on active duty sustains an injury due to military operations, the Service member is not discharged, but remains in the Selected Reserve on active duty under 12301(h), title 10, U.S.C.. None of the time spent in recovery under this status is qualifying time for purposes of the Post-9/11 GI Bill. In this case, the Service member would return to Selected Reserve status with less qualifying time than those who served an entire period of active duty without an intervening injury. This legislation would correct this inequity by simply extending eligibility for the Post-9/11 GI Bill to service under 12301(h).

DoD recognizes the inequity of not including this active duty time for purposes of Post-9/11 GI Bill benefits, and included a provision similar to this bill in our FY16 legislative proposal submission. However, the DoD proposal would have included only active duty performed after enactment. In contrast, this legislation would be retroactive, categorizing all duty performed under 12301(h) since September 11, 2001, as qualifying active duty for purposes of the Post-9/11 GI Bill. We estimate that approximately 5,000 RC members performed active

duty under 12301(h) each year since September 11, 2001. Accordingly, we believe this draft bill would generate an additional cost to the Department of Veterans Affairs. Given that both the funding and administration of the Post-9/11 GI Bill fall under the purview of the Department of Veterans Affairs, DoD would defer to that agency to determine the costs and effects of the bill on their agency.

**S 882. A Bill to provide for the entitlement to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs for members of the Armed Forces awarded the Purple Heart, and for other purposes**

This Bill would amend title 38, U.S.C., to authorize any member of the Armed Forces who is awarded the Purple Heart eligibility for the Post-9/11 GI Bill at the 100 percent rate, regardless of months of qualifying active duty, and make them eligible to participate in the Yellow Ribbon GI Bill Education Enhancement Program (Section 3317(a), 38 U.S.C.) The Department fully supports recognizing the service and sacrifice of our Service members who are wounded and awarded the Purple Heart. However, given that both the funding and administration of this additional benefit fall under the purview of the Department of Veterans Affairs, we would defer to that agency to determine the costs and effects of the bill on their Department.

**S 1218. Empowering Federal 5 Employment for Veterans Act of 2017**

The Department strongly supports S.1218, which is in line with current strategic recruitment and employment outreach initiatives performed by the Department for wounded, ill, injured, and transitioning service members and veterans. This bill upholds and will strengthen the Department's continuing support to provide specialized transition assistance to the civilian workforce and promote the Federal government as an "Employer of Choice."

Consistent with the bill's provisions, the Department has designated an employee with full time responsibility for carrying out a Veterans Employment Program. DoD's Veterans Employment Program Office (VEPO), within the Office of the Under Secretary of Defense for Personnel and Readiness, established in 2009, is responsible for the development and management of DoD's Veterans Employment and Hiring Heroes Programs, as well as DoD's Veterans Recruitment and Employment Operational Plan, to enhance and promote employment opportunities for veterans, and veteran's recruitment programs. As an example, the Hiring

Heroes program provides job search assistance to wounded, ill, and injured service members, transitioning service members, veterans, military spouses, and primary caregivers, providing these warriors and families specialized transition assistance into the civilian workforce. Since April 2005, the Department has conducted 87 highly successful “Hiring Heroes Career Fairs,” providing opportunities for job seekers to network, collect information and speak face-to-face with recruiters and employers about civilian career opportunities.

The provisions of S.1218 will better enable the Department to execute recruitment and outreach activities such as the Hiring Heroes Program, along with career readiness programs, which have been developed to assist transitioning service members and veterans in their search of employment.

The Department also supports Section 4 of this bill, “Expansion of SkillBridge Initiative to Include Participation by Federal Agencies.” This expansion of the successful DoD SkillBridge initiative, to also include federal agencies as participants, would greatly strengthen the initiative and its positive impact on transitioning Service members. After Congress authorized SkillBridge in the FY13 NDAA, the program allowed transitioning Service members to participate in employer-driven job skills training, apprenticeships, and internship programs, beginning up to six months prior to transitioning out of the military. Through such participation in private-sector SkillBridge training, transitioning Service members have received jobs in dozens of industries, from corporate finance to advanced manufacturing, information technology, and cyber security. Just as businesses have greatly benefitted from the program and the talents our highly trained Service members bring, so too will federal agencies. The expansion to federal agencies as eligible employers and trainers under the program will provide a true win-win for both the federal government and transitioning Service members.

#### **S. 75. Arla Harrell Act**

This proposed legislation would require DoD and the Department of Veterans Affairs to jointly establish a policy on the process future claims for mustard gas exposure. In addition, DoD would need to issue a policy on sites where such testing occurred, and investigate and report to Congress on any new sites where veterans claimed testing occurred. The Department opposes this legislation. The legislation is inconsistent as to whether it only applies to full-body exposure claims. While DoD would agree to a presumption of exposure if limited to World War II veterans who participated in testing of full-body exposure, for the individuals to whom section

3(a)(1) of this legislation would apply, the Department has no evidence of such testing that would prove or disprove the exposure. However, use of mustard gas during training in World War II was ubiquitous, so the legislation needs to be clear to delimit possible claims to those who participated in full-body exposure testing and whose claims were previously denied by VA.

Furthermore, the Department would be required to investigate and report on possible addition to the list of sites known to have conducted full-body exposure testing. However, if full-body exposure is presumed based solely upon a veteran's statement, then the number of sites at which testing occurred is immaterial. The Department of Defense has already investigated, and provided to Congress everything we know about testing sites.

The data this legislation would require DoD to report is duplicative of information the Department has already provided to Congress. In November 2015, DoD, specifically the Under Secretary of Defense for Acquisition, Technology and Logistics, provided the known list of sites where testing occurred in response to a request of the Senate Committee on Aging. In addition, the Institute of Medicine published a report on these tests, "Veterans at Risk: The Health Effects of Mustard Gas and Lewisite," National Academy Press (1993). Similarly, the Government Accountability Office published two reports that included information about these tests, "VETERANS DISABILITY: Information from Military May Help VA Assess Claims Related to Secret Tests," February 1993, and "DoD and VA Need to Improve Efforts to Identify and Notify Individuals Potentially Exposed during Chemical and Biological Tests," February 2008.

## **Conclusion**

In conclusion, the Department of Defense fully supports appropriate and effective legislative changes that will help our efforts to attract, recruit, and retain talented individuals. Post-service education benefits have been a cornerstone of our military recruiting and retention efforts since 1985, and a major contributor to the continued success of the All-Volunteer Force. Higher education benefits have been and remain at the forefront of reasons cited by young Americans for joining the military. From its inception, we fully expected the Post-9/11 GI Bill to continue to have this impact and we are seeing that happen in the form of sustained recruiting and retention success. The Department thanks the Committee for their continuing support of our Service members and Veterans.