

**STATEMENT OF
Mr. Tom Bush and Dr. Curt Gilroy**

**Before The
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity**

ON

**Legislation Affecting Benefits and Educational
Assistance Programs**

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INTRODUCTION

Good afternoon Madam Chairwoman and members of the Subcommittee. We are pleased to appear before you today, on behalf of the Department of Defense (DoD), to testify about pending legislation that affects programs available to active duty members, National Guard and Reserve members, and veterans. The pending bills that directly affect DoD are H.R. 4889, H.R. 5684, H.R. 3393, and H.R. 3798. The changes proposed in these bills will significantly alter the Montgomery GI Bill (MGIB) and the Reserve Educational Assistance Program (REAP), which provide educational assistance benefits to Active, Guard and Reserve members who have served in support of contingencies, and the impact of activations of members of the Reserve components on their employers.

PROGRAM CHANGES AND ENHANCEMENTS

For today's hearing, you asked that we comment on several bills that would modify educational assistance programs, home loan programs, employer relations and support, and provisions of the Servicemembers' Civil Relief Act. Our comments will focus on the implications of the proposals on military force management, specifically military recruiting and retention, and the relationship of the Department of Defense with the Nation's businesses and employers of Service members. As for the amendments affecting the Servicemembers' Civil Relief Act, H.R. 3798 and H.R. 4883, the Department is in general support of these bills. We will submit a separate views letter to address minor technical change recommendations.

We will defer to the Department of Veterans Affairs for those bills that impact programs under their purview, specifically H.R. 4884, H.R. 4539, H.R. 3889, H.R. 3681, H.R. 3646, H.R. 3467, and H.R. 5664.

RESERVE EDUCATIONAL ASSISTANCE PROGRAM

The Reserve Educational Assistance Program (REAP) was developed to reward National Guard and Reserve members who served in support of a contingency operation and National Guard members who performed federally funded state duty at the request of the President or

Secretary of Defense to respond to a national emergency, and to provide an incentive to continue to serve following a mobilization when pressure to separate may be strong. However, the retention aspect of REAP was lost with enactment of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008) when Congress added the 10-year post-service eligibility provision to REAP.

H.R. 4889, the Guard and Reserves are Fighting Too Act of 2008, would eliminate the 10-year post-service eligibility thereby restoring the retention incentive and recodify chapter 1607 (REAP) of title 10, as a new chapter in title 38. This bill is substantively flawed. Although we support restoring REAP as a retention incentive, the bill would inappropriately, move a reserve force management program to the Department of Veterans Affairs.

Second, H. R. 4889 would require the Secretary of Defense to transfer to the Secretary of Veterans Affairs the funds that are in the Department of Defense Education Benefits Fund. These are funds appropriated to the Department of Defense and programmed to be spent on the Department's reserve component retention incentive programs and should remain with DoD to fund what would be a restored DoD incentive program. The Department needs the dollars in the Education Benefits Fund programmed for REAP if this bill is enacted as drafted, or to fund other, alternative retention programs and additional recruiting efforts to make up for the losses in skilled manpower that will result from the FY 2008 NDAA revision of REAP.

For these reasons, the Department does not support H.R. 4889.

VETERANS EDUCATIONAL ASSISTANCE PROGRAM

H.R. 5684, the Veterans Education Improvement Act of 2008 would make significant changes to Chapter 30, title 38, United States Code. As we have testified before, the Department does not believe that the basic structure of the Montgomery GI Bill is broken. However, we do recognize that some changes to the program would be advantageous. Since the administration and funding for the MGIB fall within the VA, we focus on only those aspects of the bill that would have an impact on military force management and defer to VA for other comments. There are some attractive features of this bill which we support, but we do have some concerns.

First, we regret that HR 5684 does not make changes to the existing transferability provision currently in section 3020, title 38, United States Code (U.S.C.). The Department's number one imperative with regard to the MGIB is opening up of the authority for the Service Secretaries to allow all career members the ability to transfer their unused education benefits to family members, consistent with strong messages from the field and fleet, and the President's specific request that was presented in his State of the Union Address. As a result, the Administration cannot support this bill in lieu of the Administration's transferability proposal, which will be transmitted shortly.

Second, research sponsored by the Department and conducted at Clemson University by the Lewin Group suggests that negative retention effects begin to intrude when the monthly benefit exceeds \$1,400 to \$1,500. Therefore, we are confident that this bill, as currently structured with a monthly benefit of \$1,950, would encourage untimely separation among many members who otherwise would have elected to remain in the military. In turn, this would demand new investments to hike retention incentives as a counterbalance. This challenge could be offset by targeting those who have completed at least six years of service – the timeframe recognized in current law (e.g., section 1174, title 1, U.S.C.) as the point at which special benefits would be required to recognize career oriented service members making a transition from the military. Six years should represent the minimum service period required to qualify for the expanded benefits available under HR 5684.

Section 2 of HR 5684 would increase the monthly educational benefit from the current \$1,101 to \$1,450 for those whose initial tour was three years or more. This benefit level is in line with the average cost of a four-year public education (tuition, fees, room, and board) as estimated using data from the Department of Education – a benchmark we believe would not negatively impact our force management programs. We support this provision.

Section 3 would extend the current 10-year delimiting period for MGIB usage to 15 years. This provision has no impact on military force management and is directly applicable to military veterans. We defer to the VA for comment relating to program and administration costs.

Section 4 would add a \$500 monthly educational stipend to the basic benefit for those pursuing an approved program of education on at least a half-time basis. While the basic benefit as proposed in this bill would cover the average tuition, fees, room, and board at a four-year public institution, we recognize that students may have other expenses. The College Board has estimated that books, supplies, and personal expenses average just over \$2,200 per academic year, or about \$245 per month. If available only to new Service members who would elect a four or more year initial term of service, the Department could support a stipend at the \$245 level, as it would increase experienced man-years across the Department. As an example, even a modest increase in four or more year enlistments in the Army above the current 58% would have a significant positive effect on military readiness.

Section 5 would make changes to the way the current pay reduction required for enrollment is administered by extending the current reduction of \$100 per month for the first 12 months of service to \$50 per month for the first 24 months. In essence, this would be like a small pay raise for our most junior troops at a time they may most need it. Although there could be a first year decrement to the general treasury of about \$90 million, in the second and subsequent years there should be no impact on treasury receipts. We would support this provision.

Section 8 would allow the use of MGIB benefits to repay federal student loans. Currently, new enlistees who receive college loan repayment under the provisions of Chapter 109, title 10, United States Code, are ineligible to use that period of service to qualify for the MGIB. This provision would allow young men and women the opportunity to serve and use their earned MGIB benefits for either pre-service education or post-service education, or a combination of the two. This provision would be very advantageous to those young men and women who choose to stop or drop out of college to serve their country, but who fully intend to continue their education either during or after service. We would support this increased flexibility in the use of educational benefits.

The Department is in general support of increasing flexibility in the use of MGIB benefits as specified in section 6, 7, and 9 through 19. However, we defer to the VA for comment as it affects their program, the costs and its administration.

OTHER PROGRAM CHANGES

H.R. 3393, the Reserve Access to Justice Act of 2007, would provide an additional Uniformed Services Employment and Reemployment Rights Act (USERRA) enforcement mechanism to the U.S. District Court, in the case of a civilian employer, or the U.S. Court of the Federal Circuit, in the case of a Federal employer, who willfully fails to comply with the provisions of USERRA. Under chapter 43 of title 38, U.S.C., as it would be amended by this bill, the court may require the employer to compensate the affected employee the greater of any loss of wages or benefits suffered by reason of the employer's failure to comply with USERRA or \$20,000, in addition to any other rights and benefits the employee may have. The court may also award punitive damages when the employer has 15 or more employees. Actions may also be brought against States as employers and State officials.

The Department is not aware of any data that would indicate a need for this legislation. On the contrary, we are concerned about the negative message its enactment may send to the Nation's employers. With over 630,000 RC members who have been activated, a large number of employers are affected by the temporary loss of an employee to military service and it is inevitable that some conflicts will arise even though reservists' employment rights are protected by law. To give perspective to the problems that have arisen, between September 11, 2001 and September 30, 2007, data show that 513,248 Guard and Reserve members were deactivated. During this timeframe, the Department of Labor received 6,606 cases filed by Reserve or Guard members. This represents less than 1.3% of the deactivated population. The Department believes USERRA is working well, and employers continue to support to their Reserve component employees.

We would rather reach out to employers and work with them to resolve problems, as we do through Employer Support for the Guard and Reserve organization. Therefore, we suggest the Congress not take this decisive action without compelling evidence of its need and certainty that it will not do more harm than good. .

H.R. 3798, the National Guard Employment Protection Act of 2007, would amend USERRA to specify that the Secretary of Defense may designate service by a member of the National Guard in a state status under the provisions of section 502(f), title 32, U.S.C., as service

that is exempt from the five-year cumulative service limitation on USERRA protections. The Department supports the intent of this bill, but would like to work with the Subcommittee and DOL to further explore the intent of this legislation.

H.R. 3298, the 21st Century Servicemembers Protection Act, would amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations. The Administration's position on this bill is under development and will be forwarded under separate cover.

CONCLUSION

Today, the volunteer military stands ready, willing, and able to defend our great nation, as well as its values and principles. Credit for our success in attracting and retaining high-quality people to serve in uniform belongs in large measure to the Congress and to your Committee for providing military members with the benefits embodied in the educational assistance programs. Few areas, if any, are more important to DoD than recruiting and retention. We recognize our duty to man the All-Volunteer Force with high-quality, motivated, and well-trained men and women. The MGIB education benefit has been a major contributor to recruiting achievements for our active forces and a major contributor to both recruiting and retention of our Guard and Reserve forces for more than 20 years and REAP has been an effective new retention tool for sustaining membership in the Selected Reserve as evidenced with more than 58,000 Reserve component members having used the this benefit during the three and a half since it was authorized. As we move through the 21st Century, we must continue to build upon the remarkable legacy of the visionaries who crafted preceding versions and improvements in the GI Bill. I thank this Committee for its dedicated support to the men and women who currently serve, and those who have served, our great nation.