



THE AMERICAN LEGION LEGISLATIVE POINT PAPERS

**Guard & Reserve GI Bill Parity**

**Background**

From protecting borders and capitals to delivering pandemic aid and supporting local law enforcement, National Guard and Reserve servicemembers have been increasingly called upon to confront unique challenges. Often, they leave their families and civilian employers for sizable amounts of time, sometimes taking significant pay cuts. Yet despite all we ask of them, too often they are denied a cornerstone benefit of service: the GI Bill.

According to the law as it is currently written, National Guard and Reserve servicemembers only accrue GI Bill entitlements when called to active duty under federal orders. When National Guard and Reserve servicemembers are activated under state orders, they do not accrue eligibility for GI Bill benefits.

This discrepancy was especially apparent during the rush to activations amid the COVID-19 pandemic before a national emergency was declared. The result of these emergency declarations has no bearing on the actual duties the servicemember performs. Those activated for coronavirus relief under the aegis of the national emergency declaration received credit toward GI Bill eligibility. However, those activated under a governor’s state of emergency did not. Thousands of National Guard servicemembers assisting with the construction of the wall on the U.S.- Mexico border received credit toward GI Bill eligibility, but the 120,000 activated to respond to civil rights protests throughout 2020 did not. We must discard this arbitrary classification of citizen service. The American Legion believes that every day in uniform counts. National Guard and Reserve servicemembers who get stretched to the limit serving alongside their active-duty counterparts deserve the same GI Bill eligibility, and it is past time for Congress to provide it to them.

Many servicemembers may not be aware of which activation they may be mobilizing under and how it affects their benefits:

<b>BENEFITS ELIGIBILITY FOR 32 USC 502(F) MISSIONS</b>				
<b>Benefit</b>	<b>502(f)(1) (A) Involuntary</b>	<b>502(f)(1)(B) Voluntary</b>	<b>Involuntary 502(f) In support of (ISO) Presidential Declaration of National Emergency (DNE)</b>	<b>Voluntary 502(f) ISO DNE</b>
Post 9/11 GI Bill <a href="#">38 USC 3301</a>	No	No	Yes	Yes
Post 9/11 Duration Protection (if study interrupted) <a href="#">38 USC 3312</a>	No	No	Yes	Yes



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Education Assistance Protections <a href="#">10 USC 16131</a>	No	No	No	No
USERRA (service does not count toward 5- year limit) <a href="#">38 USC 4312(c)(4)(F)</a>	No	No	Yes	Yes
SCRA Protections <a href="#">50 USC App. §§501-597b</a> (50 USC 3911)	No	No	Yes	Yes
Reserve Income Replacement <a href="#">37 USC 910</a>	Yes	No	Yes	No
Training & Rehabilitation benefit protections <a href="#">38 USC 3103(f)</a>	No	No	No	No
Pre-Mobilization Healthcare <a href="#">10 USC 1074</a>	No	No	No	No

### Key Points

- Over the course of the COVID-19 pandemic, all 50 states & U.S. Territories activated servicemembers under 502(f) status to directly support the ongoing national public health crisis.
- When Army Reserve servicemembers are ordered to professional development academies, they are activated under GI Bill-eligible 12301(d) orders.
- When National Guard servicemembers are ordered to the same professional development academies, they are activated under GI Bill-ineligible 502(f) orders.

### What Can Congress Do?

- Pass legislation which would expand access to the Post-9/11 GI Bill by counting every day that a servicemember is activated under Title 32 orders toward benefits eligibility.
- Hold Department of Defense and the National Guard Bureau accountable for providing transparency to National Guard and Reserve servicemembers on their GI Bill eligibility.

### Relevant Resolution:

- Resolution No. 54: GI Bill Eligibility for Reserve and National Guard Service.<sup>18</sup>

<sup>18</sup> The American Legion Resolution No. 54 (2019): [GI Bill Eligibility for Reserve and National Guard Service](#).