



LEGISLATIVE POINT PAPER 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. 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. 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:

BENEFITS ELIGIBILITY FOR 32 USC 502(F) MISSIONS				
Benefit	502(f)(1) (A) Involuntary	502(f)(1)(B) Voluntary	Involuntary 502(f) in support of (ISO) Presidential Declaration of National Emergency (DNE)	Voluntary 502(f) ISO DNE
Post-9/11 GI Bill 38 USC 3301	No	No	Yes	Yes
Post-9/11 Duration Protection (if study interrupted) 38 USC 3312	No	No	Yes	Yes

Benefit	502(f)(1) (A) Involuntary	502(f)(1)(B) Voluntary	Involuntary 502(f) in support of (ISO) Presidential Declaration of National Emergency (DNE)	Voluntary 502(f) ISO DNE
Education Assistance Protections 10 USC 16131	No	No	No	No
USERRA (service does not count toward 5- year limit) 38 USC 4312(c)(4)(F)	No	No	Yes	Yes
SCRA Protections 50 USC App. §§501-597b (50 USC 3911)	No	No	Yes	Yes
Reserve Income Replacement 37 USC 910	Yes	No	Yes	No
Training & Rehabilitation benefit protections 38 USC 3103(f)	No	No	No	No
Pre-Mobilization Healthcare 10 USC 1074	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 CONGRESS CAN 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 RESOLUTIONS

- Resolution No. 24: GI Bill Fairness for Activated National Guard and Reserve Servicemembers¹

¹ The American Legion Resolution No. 24 (2022): [GI Bill Fairness for Activated National Guard and Reserve Servicemembers](#)