

**STATEMENT OF THE MILITARY COALITION  
(TMC)**

**before the**

**SENATE COMMITTEE ON FINANCE**

**concerning**

**Current Tax Policy**

**Affecting Veteran and Uniform Services Communities**

**September 22, 2010**

**Presented by**

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MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE, On behalf The Military Coalition (TMC), a consortium of nationally prominent military and veteran organizations listed below, representing more than 5.5 million members plus their families and survivors, we are grateful for this opportunity to express TMC views concerning tax issues affecting Active (AC) and Reserve Components (RC) and members of their families.

Air Force Association  
Air Force Sergeants Association  
Air Force Women Officers Associated  
AMVETS (American Veterans)  
Army Aviation Association of America  
Association of Military Surgeons of the United States  
Association of the United States Army  
Association of the United States Navy  
Chief Warrant Officer and Warrant Officer Association, U.S. Coast Guard  
Commissioned Officers Association of the U.S. Public Health Service, Inc.  
Enlisted Association of the National Guard of the United States  
Fleet Reserve Association  
Gold Star Wives  
Iraq & Afghanistan Veterans of America  
Jewish War Veterans of the United States of America  
Marine Corps League  
Marine Corps Reserve Association  
Military Chaplains Association of the United States of America  
Military Officers Association of America  
Military Order of the Purple Heart  
National Association for Uniformed Services  
National Guard Association of the United States  
National Military Family Association  
Naval Enlisted Reserve Association  
Non Commissioned Officers Association  
Reserve Enlisted Association of the United States  
Reserve Officers Association  
Society of Medical Consultants to the Armed Forces  
The Retired Enlisted Association  
United States Army Warrant Officers Association  
United States Coast Guard Chief Petty Officers Association  
Veterans of Foreign Wars of the United States

The Military Coalition, Inc. does not receive any grants or contracts from the federal government.

## Executive Summary

**Authorize Tax Credits for Employers of Reservist/Employees** - Support by employers of members in the Reserve Component enables the Total Force to accomplish today's missions. While the Uniform Services Employment and Reemployment Act (USERRA) provides protection for serving members and sanctions against violating employers, positive as well as negative incentives are needed.

**Authorize Tax Incentives for Employers Hiring Demobilized Service Members and AC/RC Military Spouses** - Service men and women need a smooth transition from military duty to civilian life, or when transferred between bases. Employment of military spouses as well as re-employment of the serving member is also considered a critical element in recruiting and retaining a high quality all volunteer force. TMC supports:

- Expanding the Workforce Opportunity Tax Credit to giving employers tax credits who:
  - Hire military spouses of both Active and Reserve Components
  - Hire demobilized service members
- Providing tax credit to offset expenses by military spouses who must obtain professional or trade license or certification when the Active or Reserve service member is relocated to a state where the spouse is no longer qualified to work in that profession or trade.

**Increase the Alternative Minimum Tax Exemption (AMT) for Children Who Receive a Survivor Benefit Plan (SBP) Annuity** - An SBP annuity received by a child is classified as unearned income and can be taxed at a higher AMT rate. TMC supports eliminating the punitive burden imposed by the AMT by increasing the exemption by adding the SBP amount received by the child, i.e., raising the exemption.

**Improve Above-The-Line Deduction for Overnight Travel Expenses of Guard and Reserve Members** - Restoration of full tax-deductibility of non-reimbursable expenses related to military training allowing that "the deductions be allowed...for any training period during which such individual is more than 50 miles away from home in connection with such services."

### Other TMC Tax Goals

**Provide Combat Zone Tax Credit to USPHS and NOAA Officers**

**Authorize Pre-Tax Deductions for Premiums Paid on Health Insurance**

**Implement Uniformed Service Member Flexible Spending Accounts (FSA)**

**Authorize Pre-Tax Deductions for Long Term Care (LTC) Premiums**

**Reform the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO)**

## DISCUSSION

**Authorize Tax Credits for Employers of Reservist/Employees** - TMC would like to thank this committee on legislation passed by Congress in 2008 resulting in a first-ever tax credit for certain small businesses that pay a wage differential to Guard -Reserve members called to active duty (P.L. 110-245). The authority unfortunately lapsed on 31 December 2009.

Congress should make this tax credit permanent and expand employer tax credits as a means to help offset costs associated with employees' Guard or Reserve activities and reinforce employer support.

TMC is pleased to note that this employer benefit recognized the enormous burdens that America's employers bear under operational reserve policy. Employers of Guardsmen and Reservists are often burdened with extra costs to support the nation's defense through the participation of their employees in the military. Business efficiencies are reduced, and there are added costs hiring temporary replacements. Today's increased OPTEMPO makes employer support more important than ever. Providing tax credits for employers of mobilized Reserve Component employees is simply prudent fiscal policy and would offset these extra accrued business expenses.

The stress of nine years of deployments has been exceptionally challenging for reservists families and civilian career opportunities. Despite legislative safeguards under the USERRA, reservists face direct and indirect pressure from their employers prior to and after an operational call-up. Most employers want to be supportive of the nation's operational reserve policy, but there is little or no reciprocity from the government for their own bottom-line sacrifices for hiring and retaining reservists.

Employer pressure is listed as one of the top reasons why reservists quit. The following tax credits will help offset employer costs associated with employees' Reserve activities and reinforce employer support.

- A permanent tax credit for employers continuing to pay activated Guard and Reserve employees up to 2 years
- A tax credit for businesses owners who hire temporary workers to fill-in for activated employees
- A tax credit to help small business owners to continue an employee's healthcare, providing an option to TRICARE in areas not covered by the military health network

An operational Reserve Component has proven to be a key element to maintaining the all-volunteer force. While American employers are very patriotic, there is a risk that deployment fatigue may set it as the duration of operational contingencies continues. Even with the withdrawal of combat forces from Iraq, the Guard and Reserve will continue to play an important role Afghanistan as well as in peace keeping in Bosnia, Kosovo, and the Sinai.

While USERRA may provide employment protections, it also provides sanctions against employers who violate it. The Coalition has heard from employers who say they need positive incentives as well.

**Authorize Tax Incentives for Employers hiring Demobilized Service Members and AC/RC Military Spouses** – Facing the risk of multiple call-ups, reservists are beginning to find reemployment difficult for this reason. Anecdotes about employers refusing to hire or employ individual reservists or returning veterans are surfacing as operations in Iraq and Afghanistan continue.

Reports of unemployment among returning deployed units are high. Following their return from Iraq, the 41st Infantry Brigade Combat Team out of Oregon suffered a 51 percent unemployment rate in June 2010. The National Guard (NG) Bureau reported that in April 2010 there was 30 percent unemployment for the California Army NG and 41 percent unemployment for the Ohio Army NG. Incentives are needed to help Guard and Reserve members to be hired by new employers.

As veterans, service men and women need a smooth transition from military duty to civilian life, or when they and their families are transferred between bases. The service man or woman's family is an integral part of that transition and their financial stability is essential to retention. Employment of military spouses as well as re-employment of the serving member is considered a critical element in recruiting and retaining a high quality all volunteer force. TMC supports:

- Expanding the Workforce Opportunity Tax Credit to giving employers tax credits who:
  - Hire demobilized service members and veterans
  - Hire military spouses of both Active and Reserve Components
- Providing tax credit to offset expenses by military spouses who must obtain professional or trade license or certification when the Active or Reserve service member is relocated to a state where the spouse is no longer qualified to work in that profession or trade.

While a two-year tax credit in the American Recovery and Reinvestment Act incentivized hiring Iraq and Afghanistan veterans, it needs to be extended beyond 2010, hopefully permanently. This tax credit allowed up to \$2,400 per unemployed veteran.

The unemployed veteran tax credit is accompanied by a permanent tax credit for the hiring of disabled veterans, worth up to \$4,800 per disabled veteran. However, the VA and the Department of Labor VETS program have done a poor job communicating either of these tax credits to potential employers and job seeking veterans.

**Improve Above-The-Line Deduction for Overnight Travel Expenses of Guard and Reserve Members** – National Guard members essentially subsidize a lot of their own training paying for some of their own training equipment and often are required to travel beyond normal commuting distances to get to the Individual Duty Training (IDT) each month. The cost to attend these IDT “drills” can exceed their monthly pay.

The Tax Reform Act of 1986 eliminated reservists' tax deductions on travel, lodging and food expenses incurred while on duty and in transit. Unless the expenses claimed were greater than 2 percent of a soldier's adjusted gross income, federal guidelines prohibited qualifying them as deductions. The fiscal year 2004 National Defense Authorization Act partially restored the tax deduction for above-the-line deductions for Guard and Reserve members performing military duty at locations at least 100 miles from their residence.

TMC notes that other government agencies are authorized to use a 50-mile minimum for travel compensation.

A reservist who travels more than 100 miles away from home in the performance of military duty can deduct some travel expenses as an adjustment to gross income. The amount of expenses that can be deducted is limited to the regular federal per diem rate and the standard mileage rate.

TMC recommends a change to the law restoring the full tax-deductibility of non-reimbursable expenses related to military training more than 50 miles from home in connection with such duty. This simple change would align treatment of our nation's operational reserve forces with what is allowed for Federal workers in other agencies of the government.

**Increase the Alternative Minimum Tax Exemption (AMT) for Children Who Receive a Survivor Benefit Plan (SBP) Annuity** - Survivors of fallen warriors who have dependent children are often faced with harsh realities in securing a reasonable income for their families. Normally, the DoD Survivor Benefit Plan (SBP) annuity is offset dollar-for-dollar by VA Dependency and Indemnity Compensation (DIC).

Recognizing that this offset undermines the purpose of providing an additional indemnity payment to surviving families whose military sponsors died as a result of serving, Congress included a provision in the FY2004 Defense Authorization Act allowing surviving spouses of members who died on active duty to transfer the SBP entitlement to surviving children, if any, while the spouse retained the DIC entitlement. Many spouses understandably exercised this option.

However, subsequent experience has revealed that such a transfer can unintentionally result in the child's *unearned income* triggering the punitive Alternative Minimum Tax (AMT), a provision designed to discourage parents from transferring income-producing assets to a child to achieve tax savings.

Many surviving spouses are unaware of the rules concerning the AMT and make the SBP child designation at a time of great emotional stress and often without sound tax counseling. The designation of a child as the SBP annuitant is not intended to "hide" income producing assets. Rather, it was specifically authorized by Congress for survivors of members who died while on active duty to mitigate the insidious effects of the VA Dependency and Indemnity Compensation (DIC) offset on the surviving family's income.

Senator Burr's bill seeks to negate the punitive AMT provisions by defining a surviving child's SBP annuity as *earned income*. We strongly support the intent of this much-needed bill and thank Senator Burr for his efforts to aid survivors and their families. However, we have

subsequently learned that the designation of the annuity as *earned income* would have its own unintended adverse impact on a surviving family.

In this regard, Social Security Survivor Insurance (SI), an insurance benefit formulated on the contributions of the deceased military member, cannot be paid to a child who *earns* more than the yearly exempted amount. The 2010 exemption is \$14,160 per year according to the *Social Security Administration Handbook* § 1803.

Therefore, TMC requests S. 3334 be amended to simply exempt the child designated SBP annuity from the AMT rules. Specifically, TMC has worked with Sen. Burr's staff to propose amending Title 26 USC § 59(j) (AMT provisions) by adding the following paragraph:

*“Increased Exemption for Child SBP Beneficiaries. In the case of a child to whom this section I(g) applies, the exemption amount calculated under the paragraph (j)(1) of this section shall be increased by the amount received by the child from the SBP established under Chapter 73, Subchapter II of title 10.”*

This would remove the SBP annuity from an unintended punitive tax provision and make it subject to normal tax rates. The action would fulfill the intent of the FY2004 Defense Authorization Act change by ensuring that qualifying children received both the SBP annuity and social security benefits, without disproportional tax penalties.

The Coalition very much appreciates the Committee's sensitivity to the extraordinary and extended wartime sacrifices being borne by members of the uniformed services and their families.

#### **Other TMC Goals:**

**Provide Combat Zone Tax Credit to USPHS and NOAA Officers** - Officers of the PHS and NOAA Commissioned Corps serve alongside their armed service peers in combat zones around the world. The Department of State is currently seeking additional PHS physicians for service in Iraq and Afghanistan. Yet PHS and NOAA officers were inadvertently omitted from legislation years ago establishing a tax credit for armed services members serving in combat zones - a rare exception to the compensation and benefits parity among the seven uniformed services normally the intent of the Congress.

**Authorize Pre-Tax Deductions for Premiums Paid on Health Insurance** - Seek legislation allowing service members, retirees and survivors to pay health insurance premiums for TRICARE supplements and the DoD sponsored TRICARE dental plans, on a pre-tax basis as is already permitted for Federal civilian and those who participate in a "cafeteria plan" offered by a civilian employer. Also, seek authorization for TRICARE Prime enrollment fees for retired beneficiaries to be paid on a pre-tax basis.

**Implement Uniformed Service Member Flexible Spending Accounts (FSA)** – Seek legislation directing DoD to implement Flexible Spending Accounts for service members enabling military families to pay health care (insurance deductibles, pharmacy co-pays, glasses

and contacts, dental deductibles/co-pays, over-the-counter medications, etc.) and childcare expenses with pre-tax dollars. Federal civilians are authorized to have these accounts. Additionally, authorize FSA claims filing for a prior reporting year after return from active duty for mobilized Guard and Reserve members.

**Authorize Tax Deductions for Long Term Care (LTC) Premiums** - Group long term care insurance has been approved for federal employees and uniformed services members - active, reserve, and retired. Their family members also need protection against the unforeseen cost of custodial care services that might be needed as a result of a disabling condition. LTC is a self-funded program. In order to promote enrollment in a commercial or the new government LTC insurance plan, it has been suggested that the cost of premiums be allowed as a deductible expense on federal income tax for qualified long-term care insurance plans.

**Reform Windfall Elimination Provision (WEP) and Government Pension Offset (GPO)** - Repeal or reform the WEP and GPO Social Security penalties for federal employees and spouses (many of whom are military retirees and spouses) under the Civil Service Retirement System and certain state retirement systems. WEP reduces Social Security benefits earned by these members and spouses from military service or other employment. The GPO reduces or in some cases eliminates Social Security survivor benefits for spouses who are also federal/state retirees.

## CONCLUSION

Once again The Military Coalition would like to thank the Committee for its due diligence in supporting the extraordinary and extended wartime sacrifices being borne by members of the uniformed services and their families