



Strategic Viewpoint

Preserve military readiness – modernize MilTech program

Issue

Section 1053 of the 2016 National Defense Authorization Act (NDAA) mandates the conversion of 20% of Title 32 dual-status National Guard military technicians to Title 5 federal civilian employees. The 2017 NDAA delayed the effective date to October 1, 2017. This legislation violates States' Constitutional right under the Militia Clause and, if implemented in its current form, will reduce National Guard military readiness, increase cost, create confusion in the chain of command, and diminish the Governor's authority over the Wisconsin National Guard.

Recommendation

Support Governor Walker's and NGA's call on Congress to repeal §1053 of the 2016 National Defense Authorization Act (NDAA) and consider an alternative course of action that:

1. Preserves the existing constitutional framework, which balances the States' authority to train the National Guard with Congress' role to provide for organizing, arming, and disciplining the National Guard. Regardless of structure, full-time National Guard personnel should function under Title 32 U.S.C. to allow the state to exercise its authority to train the National Guard and to recognize the Governor's authority to mobilize all personnel during an emergency.
2. Modernizes the existing law for all military technicians versus this current law, which only addresses a small portion of existing military technicians.
3. Establish an appeal process for non-military grievances affecting other than the ineffective and expensive Merit Systems Protection Board that reflects State's sovereignty over the National Guard when not serving on active duty.

Background

On March 4, 2016, a coalition of 44 Governors signed a letter to Congress requesting a repeal of 2016 NDAA's conversion of dual-status military technicians to federal employees. In total, 46 Governors requested that Congress repeal the conversion. Following receipt of this letter, Congress invited the Council of Governors and the Adjutants General (TAGs) to engage with congressional staff on the issues of concern.

The Adjutants General have worked collaboratively with the Council of Governors, National Guard Bureau (NGB), and the Office of the Secretary of Defense (OSD) to analyze the problem and impact of the legislation. On August 2, 2016, the National Guard submitted *The Assessment of Converting Title 32 Military Technicians to Title 5 Civilian Employees* report to OSD.

A majority of Adjutants General concluded that a small number of military technicians (all non-dual and 5.76% of dual status) could be converted to positions deemed non-militarily essential without **critically degrading readiness**. However, the vast majority advocated for repeal of this legislation and all concluded that a better alternative was to modernize the technician program as it exists under Title 32; improving rights and benefits for all military technicians; and preserving the readiness of the National Guard.

Importance

The conversion to Title 5 civilian employees violates States' Constitutional right under the Militia Clause, reduces military readiness, increases cost, creates confusion in the Chain of Command, and diminishes the Governor's authority over the National Guard.