



November 18, 2015

Disaster Response Coverage

Comprehensive Report Follow-up

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ISSUE STATEMENT

LEOFF Plan 2 members who are called up to federal service to respond to natural disasters receive reduced non-duty death and disability benefits from LEOFF Plan 2 if they are killed or disabled in the course of that service.

OVERVIEW

A number of LEOFF Plan 2 members were recently called into federal service with the National Guard, Military Reserves, and the National Disaster Medical System (NDMS) to respond to natural disasters such as the Oso mudslide and the Chelan wildfires. A LEOFF Plan 2 member called into federal service is classified as “on-leave” from their employer.

POLICY ISSUES & BACKGROUND

Policy Issues

Currently, no in-service benefits are provided for LEOFF Plan 2 members disabled or killed while providing federal service responding to natural disasters. The survivor of a member killed in federal service responding to natural disasters has the same benefits as the survivor of a member who left employment for other reasons.

Washington State Benefits

A member who dies before retirement is entitled to a standard death benefit ranging from a refund of contributions, up to an actuarially reduced monthly benefit paid to a surviving spouse or minor child. The monthly benefit received by the survivor is determined by the number of years the member has in the system at the time of death.

In addition to the monthly benefit, if a member dies in the line of duty, as of July 1, 2015 a \$236,443 death benefit will be paid to their designated beneficiary. This death benefit is not available to members who are called into federal service and killed responding to natural disasters during a time of peace.

Washington State Legislative History

The LEOFF Plan 2 Board and the Select Committee on Pension Policy previously recommended joint legislation to provide some pension benefit protections to members on leave for federal service in the military during a time of war:

1. A 2005 bill¹ permitted survivors of members of all plans to purchase up to 5 years of military service credit if the member died while in the uniformed services. This bill had no effect on contribution rates.
2. A 2009 bill² provided an unreduced survivor annuity to qualifying survivors of members of all systems and plans who leave public employment due to service in the National Guard or Military Reserves and die while honorably serving during a period of war. This bill had no effect on contribution rates.

The “period of war” language from the 2009 bill created a gap where members who are called by the National Guard, Military Reserves, or the NDMS to respond to natural disasters not having the unreduced survivor annuity option. Additional legislation with language allowing natural disaster responders to acquire the unreduced survivor annuity and to purchase up to five years of service credit would be required.

	Employees Responding to Natural Disasters	
	LEOFF 2 member assigned by employer	LEOFF 2 member called up by the National Guard, Military Reserves, or the NDMS
LEOFF 2 duty death benefit	X	
LEOFF 2 disability benefit	X	
Federal military benefits		X
Federal death & disability benefits	X	X
PSOB benefits	X	

Currently in 2015, there have been 60 fire fighter fatalities nationwide while responding to natural disasters.³ Washington also just experienced the largest wildfire outbreak in state history.⁴

¹ House Bill 1325 (2005)

² House Bill 1551 (2009)

³ <http://apps.usfa.fema.gov/firefighter-fatalities/>

⁴ <http://www.usatoday.com/story/news/2015/08/24/washington-wildfires-largest/32302927/>

NEXT STEPS - POLICY OPTIONS

Option 1: Direct staff to present a Final Proposal (draft legislation with fiscal note) providing the unreduced survivor annuity and ability to purchase up to 5 years of service credit to members who are called up to federal service to respond to natural disasters, and are disabled or killed during that service.

Option 2: Take no further action.



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Issue

LEOFF Plan 2 members who are called up to federal service to respond to natural disasters receive reduced non-duty death and disability benefits from LEOFF Plan 2 if they are killed or disabled in the course of that service

Overview

A number of LEOFF Plan 2 members were recently called into federal service to respond to natural disasters such as the Oso mudslide and the Chelan wildfires. Members were called up to:

- National Guard
- Military Reserves
- National Disaster Medical System (NDMS)

Overview

A LEOFF Plan 2 member called into federal service is classified as “on-leave” from their employer

- No in-service benefits
- Same benefits as the survivor of a member who left employment for other reasons

Legislative History

Joint legislation with the Select Committee on Pension Policy:

- HB 1325 (2005) - Purchase of service credit, no effect on contribution rates.
- HB 1551 (2009) - Unreduced survivor annuity, no effect on contribution rates.

Provided some pension benefit protections for periods of military service

Coverage Gap

The unreduced survivor annuity does not apply to members called into federal service to respond to natural disasters because natural disasters are not a “period of war”

Additional legislation would be required to provide this benefit

Benefits

	Employees Responding to Natural Disasters	
	LEOFF 2 member assigned by employer	LEOFF 2 member called up by National Guard, Military Reserves, or the NDMS
LEOFF 2 Duty Death Benefit	X	
LEOFF 2 Disability Benefit	X	
Federal Military Benefits		X
Federal Death & Disability Benefits	X	X
PSOB Benefits	X	

Options

1. Direct staff to present a Final Proposal

- Provide the unreduced survivor annuity and ability to purchase up to 5 years of service credit to members who are called up to federal service to respond to natural disasters; and are disabled or killed during that service.

2. Take no further action.

Questions?

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Colonel Kevin D. McMahan



Colonel McMahan was commissioned as a 2nd Lieutenant in the United States Army Reserve in 1991 after graduating with a Bachelor of Science in Telecommunications and Masters of Public Administration from the University of Idaho.

He has held various leadership positions throughout his career to include Platoon Leader, Company Commander, Battalion Operations Officer, Brigade Executive Officer, and Battalion Commander.

In 2012 he was selected to attend the Bush School of Government and Public Service's Scowcroft Institute of International Affairs at Texas A&M University as a U.S. Army War College Fellow. Following his Fellowship he attended the Joint Forces Staff College and now serves as

the Director of Manpower and Personnel (J-1) for the Washington National Guard.

Colonel McMahan's deployments include Baghdad, Iraq with the 3rd Brigade Combat Team, 1st Cavalry Division in 2005 and Ramadi, Iraq with the 81st Armor Brigade Combat Team in 2008. He has also trained in Germany, Egypt, Malaysia, and Thailand.

His military education includes Duel Status Commander course, the Joint and Combined Warfighting School; U.S. Army War College Fellowship; NATO Senior Reserve Officers Course; Command and General Staff College; Combine Arms and Staff Service School; Tank Commander's Course; Infantry Officer Advance Course; Signal Officer Basic Course; and Airborne School.

Colonel's McMahan's awards include the Bronze Star Medal (2nd Award), the Meritorious Service Medal (4th Award), the Army Commendation Medal, the Army Achievement Medal, the Army Reserve Components Achievement Medal (5th Award), and the Armed Forces Reserve Medal with silver hourglass and M devices. He also earned the Combat Infantry Badge, the Parachutist Badge, Honorable Order of Saint Maurice, and Honorable Order of St. George.



LEOFF National Guard & Reserve Overview

Colonel Kevin D. McMahan

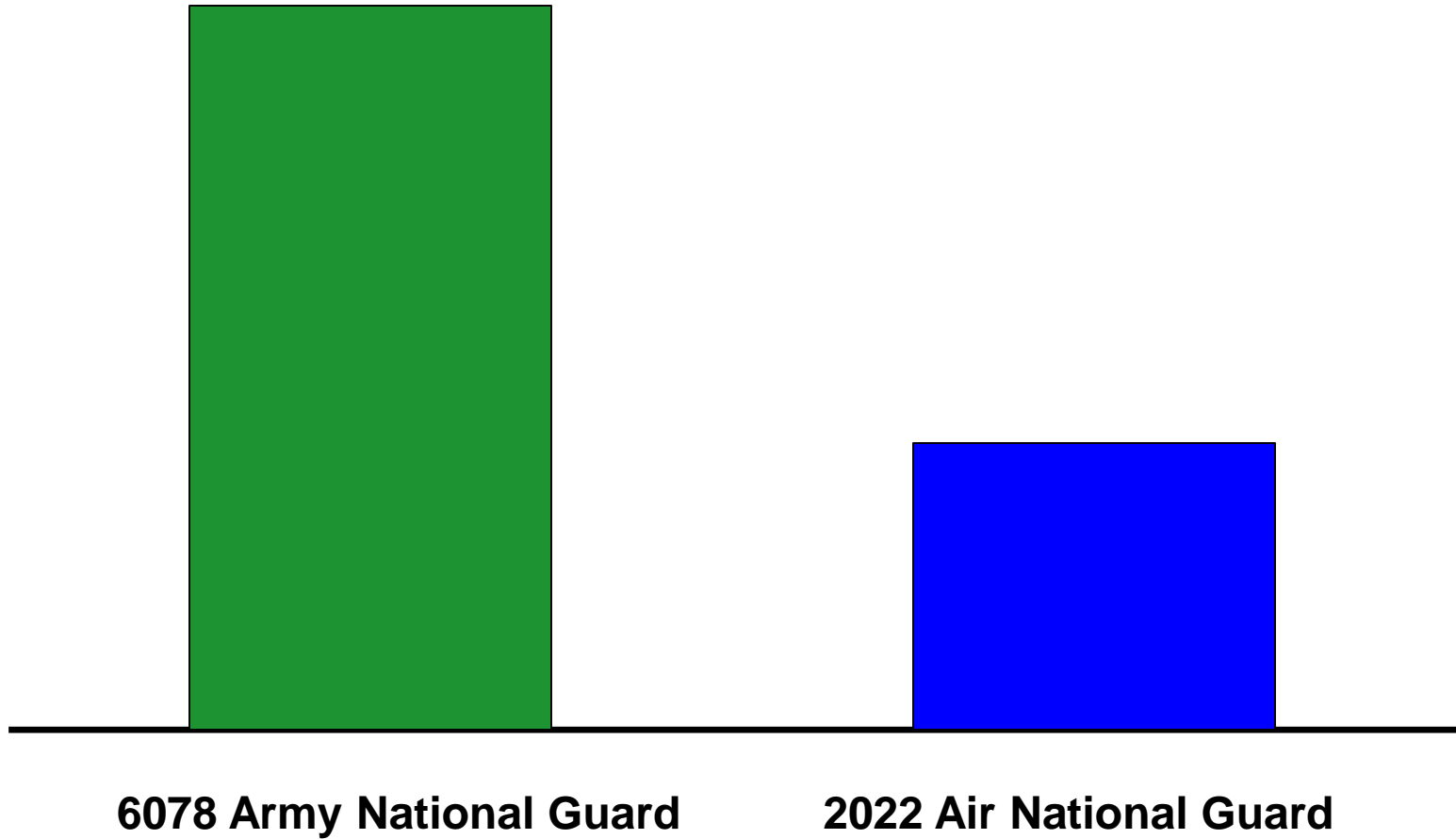
Director of Manpower and Personnel

Agenda



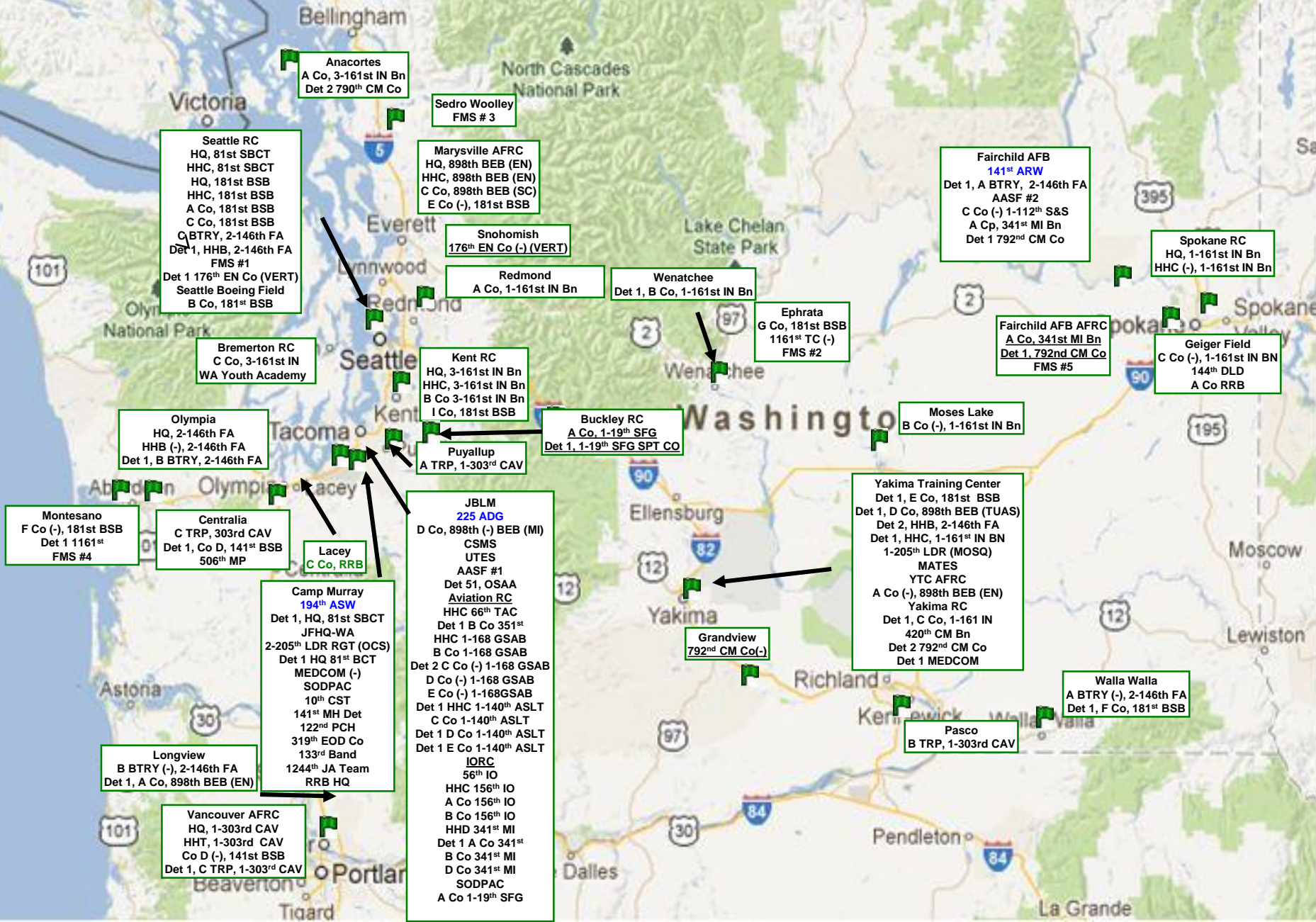
- Overview of Washington National Guard
- Authorities and Status
- Guard & Reserve Differences
- Washington National Guard Entitlements
- Questions

Washington National Guard



8100 Washington National Guard Service Members

Washington National Guard Locations

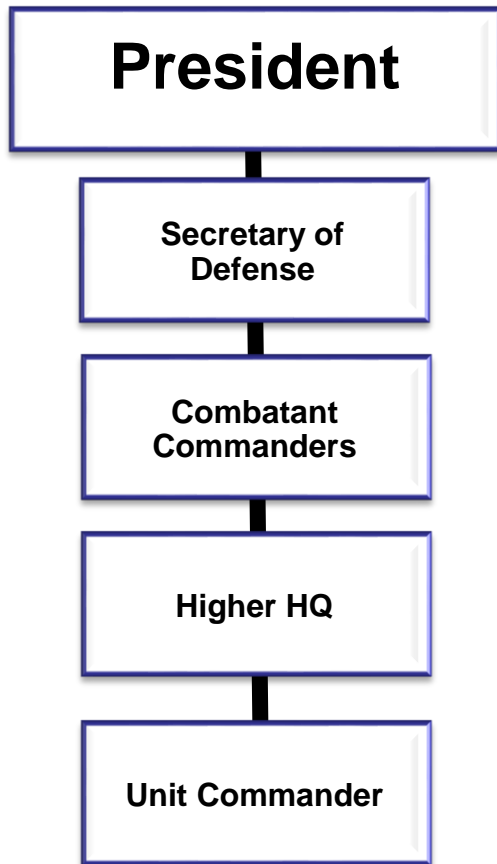


National Guard & Authorities



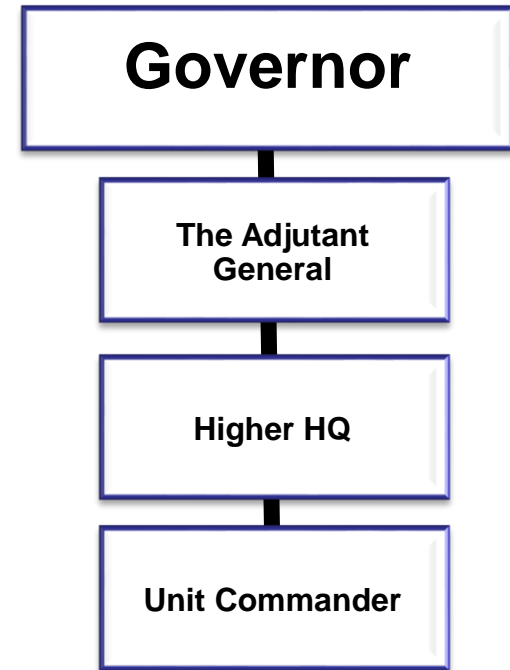
Federal Authority

Primary Governing Law: Title 10 U.S. Code



State Authority

Primary Governing Law: Title 32 U.S. Code and applicable state law

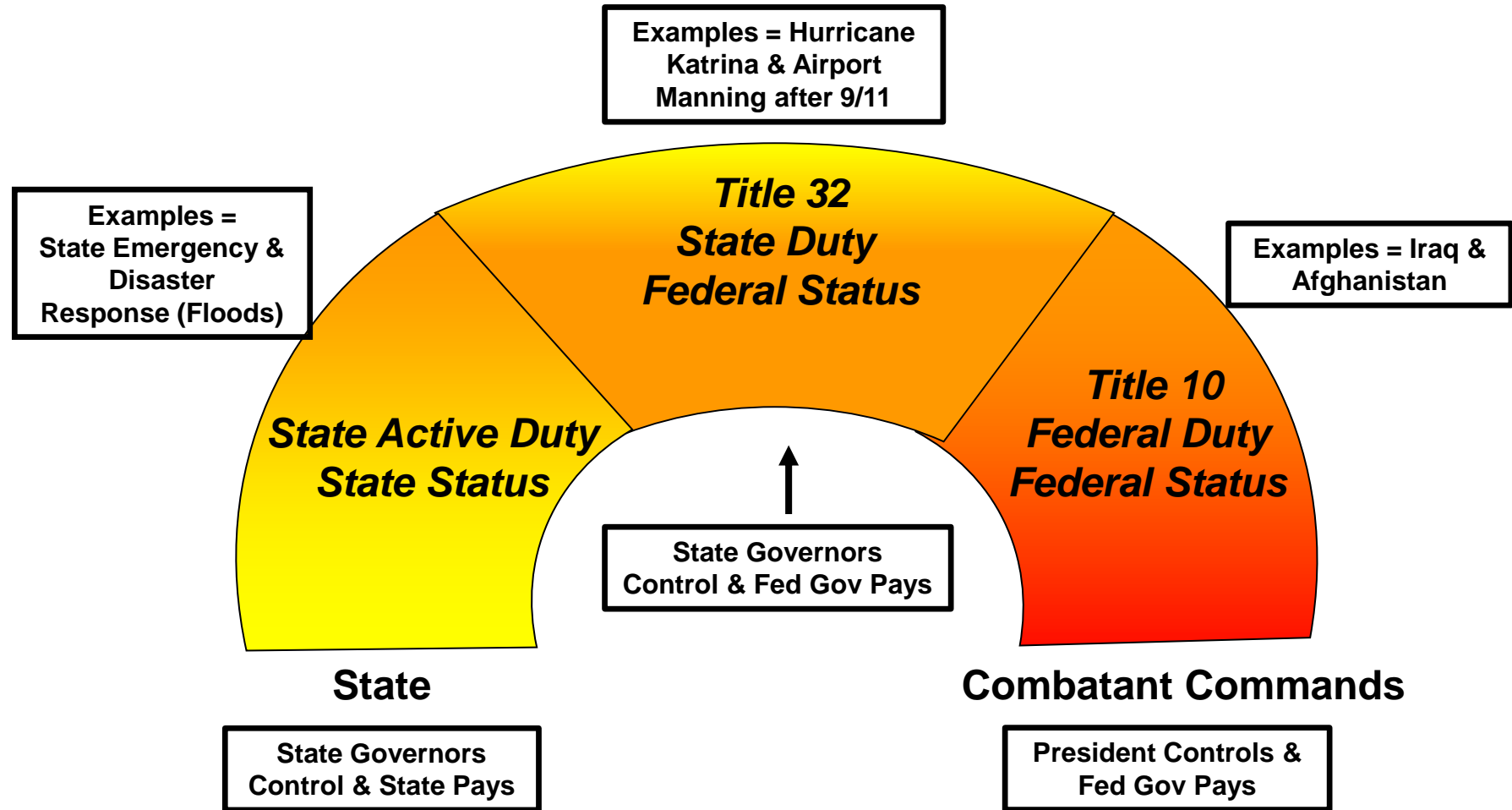


The NG is subject to either Federal or State authority, not both at the same time

National Guard Status

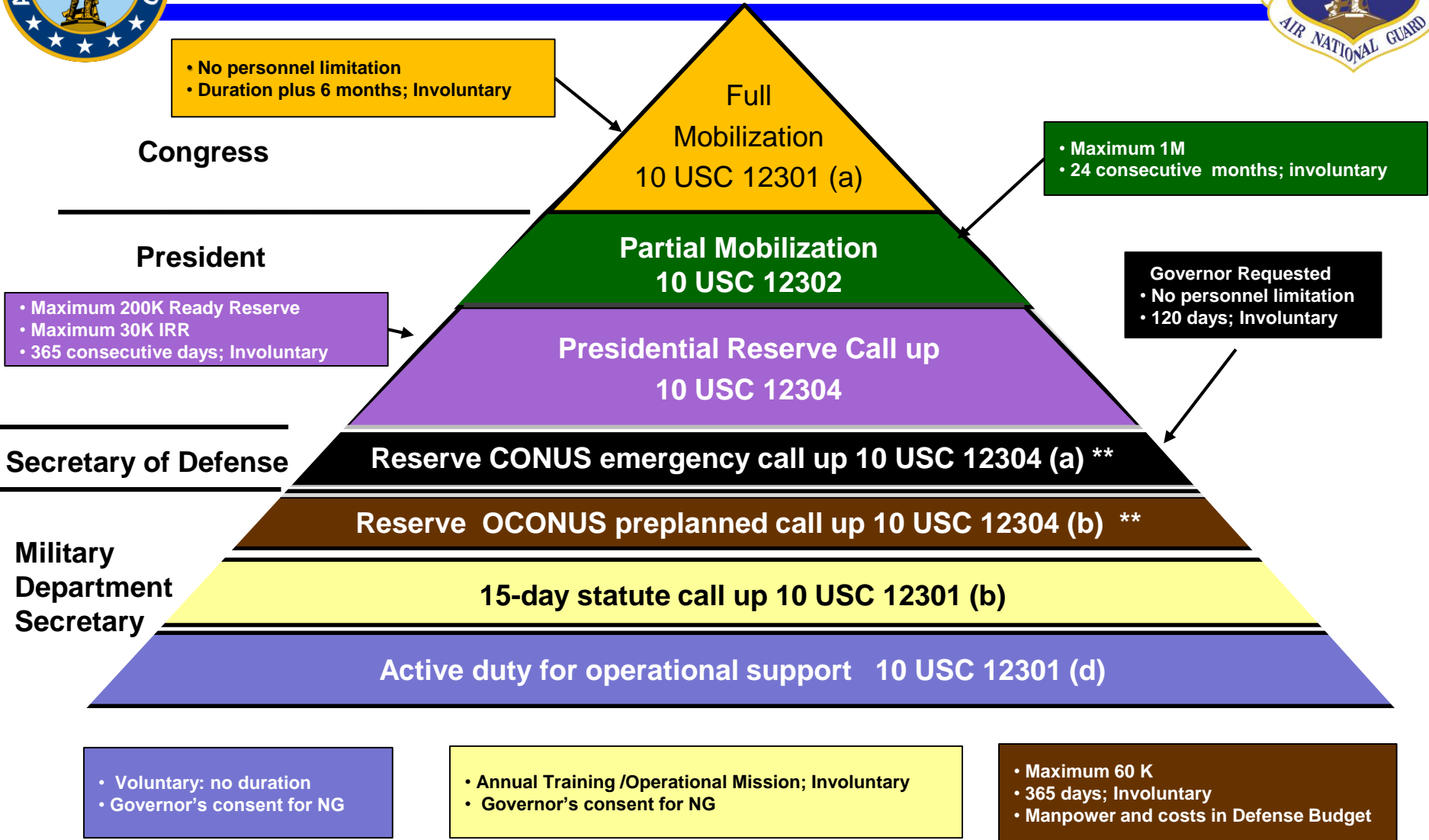


National Guard flexibility in the full spectrum of State and Federal missions





Reserve Component Authorities



Guard & Reserve Differences



Status

Command Relationships

Force Structure

	Status	Command Relationships	Force Structure
Army National Guard	<ul style="list-style-type: none"> • Serves in either Federal or State status • No Posse Comitatus restrictions when in State status • Most experienced DoD element at disaster response 	<ul style="list-style-type: none"> • State-based; commanded by Governors for emergency response, or President for federal missions • National Guard Bureau provides policy and resources to the 54 States, Territories, & D.C • Chief, National Guard Bureau a member of Joint Chiefs of Staff 	<ul style="list-style-type: none"> • Balanced with combat, combat support, & combat service support • Mobilizes as units
Army Reserve	<ul style="list-style-type: none"> • Serves only in a Federal status • Posse Comitatus applies • May provide support to States if requested by governors and approved by SecDef 	<ul style="list-style-type: none"> • Army Reserve Chief also serves as the Commanding General of US Army Reserve Command • Subordinate command of US Army Forces Command, providing unified command over Army Reserve units and Soldiers at all times 	<ul style="list-style-type: none"> • Principally combat support, combat service support & echelons above Division capabilities • Mobilizes as units & individual Soldiers

“Operational Title 32”



32 USC § 502(f)

- **Title 32 status has been typically used for training, but may also be employed for “other duty.”**
 - **In 2006, Congress amended subsection 502(f) to specifically allow National Guard units to perform an operational mission in Title 32 status at the request of the President or SECDEF and with the concurrence of the Governor, while remaining under the C2 of the Governor.**
- **Examples of use of this “Operational Title 32” status:**
 - **Airport security post- 9/11**
 - **Support to US Customs and Border Protection on the SW Border since 2006.**
 - **Relief efforts following Hurricane Katrina**



Duty Status Entitlements



Duty Status Entitlements			
	State Active Duty	Title 32	Title 10
Pay (Determined by)	State Law	Federal	Federal
Base Pay	Paid either military daily rate (base pay + nat'l BAH + Special duty pay / 30) or SAD pay \$174.08 a day, whichever is greater.	Paid at rate based on rank and years in service.	Paid at rate based on rank and years in service.
Basic Allowance Housing		Paid based on Home Of Record location	Paid based on duty location
USERRA	IAW State Law	Yes	Yes
SSCRA	IAW State Law	Yes	Yes
Discipline	Washington Military Code	Washington Military Code	Uniformed Code of Military Justice
Involuntary Order To Duty	IAW State Law	Yes	Yes
Voluntary Order To Duty	IAW State Law	Yes	Yes
Medical	Any medical expense incurred will be reviewed by WMD for payment.	LOD completed for any injury/illness incurred while on duty.	TRICARE
Direct Deposit	No (check payment)	Yes	Yes
INCAP Pay	WMD will calculate and pay using L&I Worker's Compensation formula for lost wages claim.	Yes	Yes
Leave	No leave earned. Service Member is not paid for any days not performing duty.	Leave is accrued for tours longer than 30 days at a rate of 2.5 days per month. All leave must be taken prior to end of order.	Leave earned at a rate of 2.5 days per month. All leave must be taken prior to end of order.



Duty Status Entitlements



Duty Status Entitlements			
	State Active Duty	Title 32	Title 10
Service member Group Life Insurance (SGLI)	Yes	Yes	Yes
Death Gratuity	Per RCW Title 51.32, Workers' Compensation Death Benefits a. \$4569.08 lump sum to spouse b. Up to \$9138.16 funeral expense Reimbursement	Title 32 drilling \$100,000 Title 32 non-drilling \$0	\$100,000
Sick Call	In compliance with workers' compensation rules (WAC 296), allowable Medical bills are paid by the Washington Military Department. Non-worker's compensation medical services are not covered.	Yes	Yes
Dental	In compliance with workers' compensation rules (WAC 296), allowable Dental bills are paid by the Washington Military Department. Non-worker's compensation medical services are not covered.	Yes	Yes
Line Of Duty	Temporary lost wages are calculated in compliance with RCW Title 51 utilizing L&I Form SIF5-A - Total monthly wages are multiplied by 60% for worker, 5% for spouse, and 2% per dependent up to 5 dependents. There is a minimum and maximum rate per the regulation.	Yes	Yes



Duty Status Entitlements



Duty Status Entitlements

	State Active Duty	Title 32	Title 10
Awards	WA Military Department State Awards	Federal Awards	Federal Awards
Long Term Benefits	Per RCW Title 51 allowable rates: a. Death benefits paid to spouse b. Death benefits paid to Guardian/Parent of Dependent Children c. Pension benefits to worker with permanent total disability d. Permanent Partial Disability rated in compliance with WAC 296 are paid by Washington Military Department.	Yes	Yes
Unpaid Allowance	No	Yes	Yes



Questions?

Thank You