

LEGISLATIVE PROPOSAL REQUEST

California Wartime Shared Sacrifice Act of 2005

1. PROPOSAL SUMMARY

Provide for the establishment of a Soldiers' Emergency Relief Commission to perform a rapid study of the critical problems facing California's soldiers and their families, and determine what California programs are necessary to alleviate these problems. For the purpose of this request, soldiers are defined as members of any arm or component of the Armed Forces – active duty, Reserve, and national Guard – and of both genders.

The commission will define the problems, survey the potential solutions, and recommend to the Governor and the Legislature quick-reaction programs for immediate relief.

Given the nature of the problem – its seriousness and its pervasiveness – this is proposed as emergency legislation.

2. PROBLEM

California's soldiers are not receiving promised assistance in many areas of benefits that are due them under federal programs. Particular problems have arisen in the areas of pay, medical services to include mental health services, and employment and reemployment rights. Further, particularly federalized National Guard soldiers are being sent into battle with inadequate training and insufficient or obsolete equipment. This situation adversely affects readiness of the force, and can cause devastating effects on individual health and well-being. The situation is contributing to serious family problems for married soldiers. Federal policy is striking directly at California interests.

The Military Medical system is available to those who reside on or near bases, or for those who can take the time and can afford to travel from outlying locations to the base facilities. The numbers of bases have been reduced drastically, however, in the past 20 years and further reductions are about to take place. California has particularly been hard hit by base closings and now has only a handful of major bases. Reservists and Guard members who use these facilities for themselves and their families have experienced extremely long waits. According to reliable press reports and individual statements, noncareer members have often received second priority treatment behind regular active duty members and their families.

Collectively, the near failure of service via Tricare, the shrinking of the availability of VA alternative facilities, the near non-availability of the Public Health Service, and a military installation-based medical system that has not expanded to accommodate the 50% increase in demand brought about by the extended and repeated activation of noncareer members, amount to a shattered medical support system for active duty National Guard and Reserve Forces.

It has often occurred during the current conflict that the member applies for reinstatement of employment, and the employer denies it under the "hardship" clause of USERRA [Uniformed Services Employment and Reemployment Rights Act of 1994 [USERRA] (PL 103-353)]. These incidents are reportedly increasing significantly in the current atmosphere of prolonged activation and deployments of noncareer members. While the public conversation about our noncareer service members has largely centered on multiple deployments, stop-loss, and the uncertainty of tour lengths, the painful process of getting adequate health care for themselves and their families, and the uncertainties of reacquiring their former employment contribute at least equally to a profound negative bias in morale, effectiveness, and readiness.

Just as we cannot ask our noncareer members to deploy for an uncertain time into harm's way, and not give them the certainty that their jobs will be waiting when they return, we cannot let them languish thousands of miles away worrying about whether or not their families' medical needs will be taken care of.

The time spent chasing multiple layers of rules and procedures reduce the service member's effectiveness in his or her job while in CONUS. The uncertainty and the difficulties of obtaining that support bears on the conscience of deployed members who should not be having to worry about their families health care when they are far from home. For the married soldier, nothing can contribute more assuredly to the destruction of morale.

They should not be worrying about how they will pay for medical bills when their families give up on the system because it is just too difficult. They should certainly not be worrying about how they will support their families when they return and find that their job has disappeared or gone to another.

Some activated soldiers have gone months without pay, causing great hardship to them and their dependents.

Reservists and National Guardsmen have been sent into battle with inadequate equipment, and months have passed, sometimes whole tours, during which they are less protected than active duty soldiers in the same environment.

There has been a betrayal of trust of the first order. We have asked our soldiers to serve the nation and to defend us, and we have promised to take care of them and their families while they take care of us. We have promised them that they will have their jobs back when they get home. We have also promised them danger, loneliness, pay not even approaching their civilian salaries, and terrible hours and working conditions.

We have delivered on the bad but not the good. We have written a one-sided contract with these wonderful citizens, contracts that only they have to fulfill. We have not kept our promise to these valiant soldiers who trust us so much, and love us so much, that they will lay their lives on the line for us.

In short, we have asked them to sacrifice for us but we have been unwilling to sacrifice for them.

The cause is simple, and historically always the same.

- Congress writes legislation that is incomplete and contains loopholes; this is usually unintentional, but there are loopholes nonetheless. There is little or no oversight or follow-up.
- The Administration and Congress under-fund these programs
- The military departments ignore the loopholes and attempt to serve the will of Congress, but they are underfunded – by Congress and the Administration.
- The services, in an attempt to compensate for under-funding, are forced to use contracts to implement the laws, rather than build internal infrastructure oriented on the individual service member. This introduces profit into the equation – profit on the critical life-sustaining and quality-of-life needs of our soldiers!
- The contractors put profit before service, and adopt processes and practices that ensure that they can give the minimum service for the dollars involved, thus protecting profit.
- The agencies monitoring implementation, whether it is the service departments or DoL/DoJ in the case of reemployment rights, do not put the controls in place that evaluate success on the basis of services delivered, rather they evaluate on processes followed.

The super-negative, compounding effect comes from the fact that no one examines the collective consequence of multiple systems being underfunded and under-supervised. Each system is evaluated on a stand-alone basis because the evaluations deal with the systems rather than the people to be served. The view from the top is that there is a wonderful network of interconnected and inter-working systems. The view from the bottom is that nothing works.

The problem has become so serious that senior personnel from the Armed Forces have appealed to ordinary citizens to help, as Congress and the Military Departments have been unresponsive.

Appeals to Congress on behalf of these soldiers by California citizens have likewise gone unheeded.

3. SOLUTION

California needs to take care of its own. If the federal government and the U.S. Congress cannot see the havoc being caused to individuals and families by their inaction, then California must step up for our own citizens.

We propose that the citizens of the State of California, through their Governor and Legislature, provide relief to our California soldiers and their families, without regard to cost. In short, we propose that the State of California provide surrogate relief by interceding between the soldiers and the federal benefit programs that are supposed to serve them.

We propose that the California legislature immediately establish a Soldiers' Emergency Relief Commission with a quick goal – 120 days - to identify programs that can provide immediate relief using California's resources. There is no intent at this time that this commission identify any new benefits, merely that they identify means whereby:

- soldiers and their families with medical problems can receive immediate relief
- soldiers lacking in regular military pay can be made whole without waiting
- soldiers requiring mental health services during and after federal deployment can receive such services immediately, and long-term assistance if necessary
- soldiers returning from federal service can be reemployed, or the state can act as employer of last resort
- California soldiers regardless of status, can receive up-to-date protective armament if they are to be deployed to a combat zone

The commission should work with existing bureaus of the government to determine the cost of such services and to guide those bureaus and agencies in establishing supporting programs.

The Governor and the Legislature should use whatever means is necessary to fund these expenses, including increased taxes or surcharges, added fees, reimbursement from the federal government for legitimate federal-related expenses, and state bonds.

Whatever methods are employed should include opportunities for the citizens of California to share in the sacrifice of their soldiers.

4. COST

The cost presented here is for the Soldiers' Emergency Relief Commission's activities only. The commission and agencies of the State government will determine the long term costs of the services to be provided by the State to individual soldiers and their families. The basic assumption is that the work of Phase I of the Commission will be conducted full time (5 days a week) in Sacramento, with the commissioners spending at least 4 of those days at the work place each week; Phase II will be three days a week. Travel will be conducted by all

commissioners throughout the state, with the occasional trip to Washington DC for a few. Commissioners to be paid a \$150 honorarium for days worked.

The estimated cost for a 21-person commission is based on the following specifications:

1. Start of operation – 1 July 2005
2. Period of operation.
 - a. Approval of the legislation and naming of the Chair – 30 days
 - b. Setup of the commission – 30 days
 - c. Operation of Phase I of the commission – 120 days
 - d. Operation of Phase II of the commission – Indefinite, but at least until the end of 2006
3. Staffing by period
 - a. Preliminary – Chair of the Commission, 3 staff (chief, finance, secretary)
 - b. Setup – Chair, 2 commissioners, 4 staff (+ 1 administrator)
 - c. Phase I – Chair, 20 commissioners, 5 staff (+1 administrator)
 - d. Phase II – Chair, 4 commissioners, 1 staff (administrator)
4. Travel and per diem by period
 - a. Preliminary – Travel – 4 trips to Sacramento; 20 days per diem
 - b. Setup – Travel – 12 trips to Sacramento; 2 trips to Washington DC; 60 days per diem
 - c. Phase I – Travel – 342 trips to Sacramento; 34 fact-finding trips; 4 trips to Washington DC; 1680 days per diem
 - d. Phase II – Travel – 240 trips to Sacramento; 24 fact-finding trips; 6 trips to Washington DC;

The estimated cost for the Commission alone with travel and expenses is \$901,664:

- Phase I [7/1/05 – 12/31/05 – \$617,768
- Phase II [1/1/06 – 12/31/06] – \$283,896

No costs are included for required administrative and financial support, nor for the expenses that will be incurred by supporting offices and agencies. These costs are to be determined by the legislature.

5. ORGANIZATIONAL SUPPORT

The likely organizations that would support the proposal are:

American Legion	A patriotic, mutual-help, war-time veterans organization; a community-service organization which now numbers nearly 3 million members
Veterans of Foreign Wars	Veteran's service and legislative action organization, with its Auxiliaries, includes 2.4 million members
AMVETs	Veteran's service network, community service, and legislative action organization
Disabled American Veterans	Association of disabled American veterans of all wars; 1,250,000 members

Veterans for Peace	Educational and humanitarian organization dedicated to the abolishment of war.
Vietnam Veterans Against the War	National organization for peace, and social and economic justice
Marine Corps League	National service organization providing assistance to veterans
Navy League	A national organization dedicated to the education of our citizens, including our elected officials, and the support of the men and women of the sea services and their families.
Association of the United States Army	An educational organization that supports America's Army - Active, National Guard, Reserve, Civilians, Retirees and family members.
California Democratic Party	One of the two major political parties in the State of California, representing 7,120,425 of the state's 16,557,273 voters (43%)
California for Democracy	A grassroots political organization

6. ARGUMENTS IN SUPPORT

- California historically supports its own. California citizens, in the uniform of the Armed Forces of the United States, are not getting the services and benefits they have been promised. To the extent that we can, all Californians should sacrifice to make sure that these soldiers are supported, for as long as it takes.
- California has taken the lead in many social actions in the nation. California's influence on social issues is unquestioned, and strong action on the part of California might lead to similar actions throughout the country.
- The Governor, as the Commander-in-Chief of the California National Guard has particular responsibility to the members of that organization, and general responsibility to all Californians. He does not fulfill that responsibility by passing it off to the federal government.
- Attempts to resolve these issues at the national level have been ignored.

7. ORGANIZATIONAL OPPOSITION

We have no sense of who might oppose this action.

8. ARGUMENTS IN OPPOSITION

Cost. There are those who will deny the obligation of the state to support its soldiers because of the added expense involved; they will fight having to make the sacrifice.

Competition for funds. There may be opposition to this initiative as being competitive with current programs, all of which are struggling for funds. It is our position that we do not sacrifice if we use the current budget to effect these changes, but rather we must find a way for all citizens to mutually sacrifice to support our soldiers.

Schedule. There may be opposition because this emergency proposal does not fit within the general legislative schedule of events, i.e., it is out of cycle for proposed legislation. There may also be opposition because there will be those who say that nothing can be done on the schedule proposed.

Responsibility. There may be opposition from those who deny that the responsibilities delineated here are the responsibility of California and the state government, rather they see these as federal problems to be solved by the administration.

9. BACKGROUND INFORMATION

The background information is contained in the attached letter which was sent to the California Congressional delegation, the Governor, and others on Veterans' Day, 2004. The few responses have been that it is a federal government problem (the Governor's office); that a congressperson can only help his/her specific constituent; the Democrats are out of power and can't do anything; or no response from the Republicans and many of the Democrats in Congress.

The sources in the letter go unnamed because of potential damage to their military careers.

The basic argument is that no matter the good intentions of Congress and the departments, the programs are failing miserably on the ground. These soldiers and their families cannot wait for things to work their way out over months and years. They need medical support now, they need a pay check by this Friday, they need mental health support now, they need body armor in Iraq and elsewhere, or all of society will bear the burden for the failure of families and individuals that we have foredoomed.

The ancillary arguments are that wartime sacrifice should be shared by all; and, when we say and advertise "Support the Troops" we should not just be giving lip-service, but we should always mean it.

10. CONTACT

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California Wartime Shared Sacrifice Act of 2005

(0) Title

This bill shall be known as the “California Wartime Shared Sacrifice Act of 2005”

(I) Findings and Purpose

The Legislature finds and declares as follows:

(a) Thousands of citizens of the State of California have gone to war, either because they are active duty soldiers (meaning, wherever used, soldiers, marines, sailors, airmen, and coastguardsmen – of both genders), or they have been recalled to active duty from the Reserve Forces, or they are National Guard members who have been federalized. Despite broad efforts by the U.S. Congress and the Military Departments, the support programs for these soldiers and their families are failing. The most severe result of this failure is reflected in the daily lives of those involved directly in this war, active duty and activated alike. The burden is especially hard on their families. These burdens are adversely affecting readiness of the force, and are having a deleterious effect on enlistments and reenlistments.

(b) Congress has passed legislation and allocated funds to the Departments, particularly to Defense, Labor, Justice and the Veterans’ Administration to support the troops. The Departments have established programs and have tried to synchronize their programs for the benefit of the force. They have failed too often where it counts, at the point where the support actually gets to our soldiers and their families. Good intentions are not reflected in good outcomes. Even good programs, when they are delivered on an untimely basis, have bad consequences. Our soldiers and their families are too often going without timely pay, and without immediate and adequate health and family services support. They are receiving inadequate training for both deployment and return to civilian life, and incomplete equipment and weapons allocation, particularly in the case of the Reserves and National Guard. Our National Guard and Reserve soldiers, upon return to civilian life are too often being denied reemployment, and are seldom able to receive adequate post-deployment medical and mental health care.

(c) When the nation is engaged in war, all of the people have a responsibility to share the burden. This has always been the case in the history of the United States, although since the Viet Nam war this obligation has seldom been shared across the general public. This obligation must extend to every citizen and to every legislator who acts in the name of all of the citizens, including those engaged in war. Agreement with the purposes of the war is not a prerequisite to this obligation. To date, only the soldiers and their families have been called on to sacrifice, even though the Administration and the Congress have declared the Iraq War to be a national effort. It is everyone’s obligation to voluntarily sacrifice, not necessarily to the extent that our soldiers do, but at least to some point where the sacrifice is significant, and to the point where it effects a union in spirit and action with our soldiers. In many areas of important public discourse and community action, California has historically led the way. California has been a beacon in the establishment of fairness for all of its citizens. Now California must “pay any price, bear any burden” in order to right the significant wrongs that our soldiers are suffering.

(d) California has more soldiers engaged in this war than any other state, and has lost more of its sons and daughters than any other state to death and severe wounding. The Governor, as the political leader of all Californians, and more especially as the Commander-in-Chief of the California National Guard, bears principal and personal responsibility for actions to alleviate the anxiety, pain, and discomfort of our soldiers. The Governor must act to provide aid and comfort

to all Californians involved in this conflict, regardless of the cost. The legislature must support the Governor in this endeavor, and the citizenry of the state must support the governor and the legislature, by accepting whatever cost is determined to be necessary as an over-and-above cost of today's conflict – as their fair share of the sacrifice that national policy demands.

(e) In consideration of the above findings, the purpose of this bill is to provide for the establishment of a Soldiers' Emergency Relief Commission to study and to provide immediate solutions for the Governor and the Legislature to provide all Californians involved in this war with immediate and substantial relief from the shortcomings of the federal system. This independent and non-partisan body, comprised of ordinary Californians, would be given a quick deadline to advise the Governor and the Legislature on specific and immediate actions to alleviate this grave problem, and would continue in office to monitor progress of any programs established as the result of Gubernatorial and Legislative action arising from their efforts. The cost of this Commission and the ensuing cost of state programs shall be provided by the legislature, although these costs may well be outside current budget and revenue considerations.

(II) Mandate Soldiers' Emergency Relief Commission

(a) The mandate for the Soldiers' Emergency Relief Commission is limited only by the known and discovered needs of the soldiers and their families. The mandate includes making recommendations for programs, and recommending the means in personnel and finances for carrying out those programs.

(b) The Soldiers' Emergency Relief Commission must assess the situation on the ground, where support is provided to California soldiers and their families, regardless of component or arm of service.

(c) The Soldiers' Emergency Relief Commission is to be concerned only with the relief that can be provided to these soldiers by their fellow Californians. If federal programs are involved, they are not to concern themselves with the adequacy of the programs, only with their effectiveness on the ground and with actions that can be taken by the State of California in mitigation of ineffective outcomes.

(d) The Soldiers' Emergency Relief Commission will not recommend new benefits, they will only recommend methods to deliver legally established benefits, state or federal, in a timely, appropriate, and adequate manner.

(e) The Soldiers' Emergency Relief Commission will consider means whereby federally authorized benefits, not being delivered in a timely manner, can be delivered by the State of California, with federal reimbursement coming later. The means and methods of such reimbursement are not the concern of the Commission, but rather are the province of the regular offices of the state government.

(III) Establishment of Soldiers' Emergency Relief Commission

(a) A special committee of the legislature – The Special Committee on the Soldiers' Emergency Relief Commission – shall be established to nominate the chair of the Soldiers' Emergency Relief Commission, as well as to review senior staff appointments, and receive interim reports from the chair on the progress of the commissions' work. The Special Committee shall be established within 15 days of the approval of this legislation and the chair of the Soldiers' Emergency Relief Commission shall be appointed no later than 15 days thereafter.

- (b) The Soldiers' Emergency Relief Commission is to be small, no more than 20 persons, with attending staff. The commission is to be broadly representative of the population of California, and will include former members of the Armed Services, former legislators, other members whose actual experience lends itself to the satisfaction of the commission's mandate.
- (1) Each house of the state legislature will nominate 20 persons to sit on the commission, which nominations shall be made at the same time as the selection of the commission chair, and which nominations shall include an equal number of men's and women's names. Party and regional balance should be considered in the selection of the nominees. The legislature must obtain a statement of the willingness to serve of the individual nominees prior to presenting the names to the chair.
 - (2) The Governor shall nominate two persons to sit on the commission at the same time as the legislature names the chair.
 - (3) The chair shall choose from among the nominees the persons, not to exceed 20, not including the chair, who shall comprise the commission. At least one of those persons shall be from the Governor's nominees.
 - (4) The chair is not required to select an absolute balance of any category (e.g., men/women, Senate/Assembly nominee, region, ethnicity) for the membership of the commission, but must keep the needs of the soldiers and their families first in mind, and select those nominees he believes can work rapidly together to achieve the commission's immediate goals. The chair has 15 days to announce his selections.
 - (5) The chair may call on the President pro tem of the Senate and the Speaker of the Assembly personally and directly for assistance in selecting the membership of the commission.
- (c) The Soldiers' Emergency Relief Commission will convene no later than 15 days after the naming of the membership. The Governor's office shall provide offices, meeting rooms, staff, and administrative support to the commission, sufficient to support the commission's exercise of its mandate.
- (d) Decisions on procedure during the proceedings of the commission will be made by the chair, or a deputy chair in the absence of the chair.
- (e) Decisions of the Soldiers' Emergency Relief Commission must be made by a vote of the majority of the commission. The chair is a non-voting member except in the event of a tie of the membership present. A simple majority of the commission shall constitute a quorum for the purpose of a vote.
- (f) The commission may expel any of its members except the chair for cause, by a 2/3 majority vote.
- (g) The commission will meet on a full-time basis and will conduct the majority of its work in Sacramento, however travel will be necessary, from time to time, to interview citizens on the ground and to review and observe the conduct of existing support programs. The chair shall approve such travel.
- (h) Members of the commission are to receive a per diem allowance equal to that provided members of the legislature. Hotel and travel allowances shall be paid in accordance with applicable state regulations. Members of the Commission are to receive an honorarium of \$150 per meeting day.

- (i) The Soldiers' Emergency Relief Commission will present its Preliminary Report to the Governor and the legislature no later than 60 days after the convening of the commission. This Preliminary Report will contain, as a minimum: a description of the broad problem as determined through interviews and examination; relief methods under consideration; a list of immediate actions that can be taken to alleviate problems found.
- (j) The Soldiers' Emergency Relief Commission may make reports of an interim nature at any time to the Special Committee of the Legislature that the Legislature appoints for this purpose.
- (k) The Soldiers' Emergency Relief Commission shall submit its final Action Report to the Governor and the Special Committee of the legislature no later than 120 days after convening of the commission. This final report shall include final determinations of necessary action, and shall describe a smaller residual commission that will remain in place to monitor progress under the proposals, and to recommend adjustments to ensure that the desired outcomes are achieved.
- (l) The residual body of the Soldiers' Emergency Relief Commission shall remain in place as permanent commission until the end of conflict, and the final return of California's sons and daughters to their homes and families. Or until such time a the legislature is satisfied that the purposes of the commission are consistently being met by existing agencies.

(IV) Responsibility – Chair of the Soldiers' Emergency Relief Commission

- (a) The chair will select the members of the Soldiers' Emergency Relief Commission to assess the status of benefits owed to California members of the Armed Forces, active and reserve, and the California National Guard, and recommend measures to ensure the timely receipt of services and other benefits owed to these exceptional citizens and their families.
- (b) The chair will select replacement members to the commission in the event of death or resignation of selected members . Where possible and appropriate, the chair shall select replacement members from among those names initially offered by the Legislature or the Governor. Replacement members, where possible, should have similar characteristics, experience and abilities as the member whom they are replacing.
- (c) The chair has administrative responsibility for the commission and will chair its meetings.
- (d) Administrative responsibility for the Soldiers' Emergency Relief Commission includes, within the budget and resources provided for the purpose:
 - (1) selecting the staff needed for the commission to carry out its terms of reference, and
 - (2) ensuring the members of the commission are provided with the reference resources they require to carry out their duties.
 - (3) Naming up to four Deputy chairs to assist the chair in carrying out the duties of the chair.
 - (4) Establishing committees and naming committee chairs for items requiring specific focus.
 - (5) Providing simple Rules of Procedure for the conduct of business of the Soldiers' Relief Commission, and presenting these rules for adoption by the commission at its first meeting. These rules must be consistent with the duties of the chair and the mandate of the Soldiers' Relief Commission.

<end>

August 3, 2005

Assemblymember Nicole Parra, Chair
Joint Legislative Audit Committee
State Capitol, Room 5087
Sacramento, CA 95814

Dear Assemblymember Parra:

I respectfully request an audit to determine the effectiveness of programs that should be supporting our citizen soldiers in the California National Guard and their families before, during and after active duty.

Recent reports have questioned the adequacy of pre-deployment training and whether the necessary supervision and materials have been provided to California National Guard troops before and during deployment. Additionally, families of actively-deployed as well as discharged California National Guard military personnel have raised concerns about lack of access to adequate and timely health care, including preventive and mental health services. Returning soldiers have reported problems with resolving disputes that prevent them from returning to their jobs.

All Californians who are currently serving and have served in our military deserve our utmost support. For that reason, I request that the audit examine the following issues and determine how well the state and federal programs dovetail as well as identify any barriers to coordination for efficacy between them.

HEALTH CARE

- Are California National Guard soldiers and their families receiving adequate and timely health care, and if not, what are the barriers?
- Are California National Guard soldiers receiving adequate and timely mental health services, including but not limited to access to domestic violence prevention assistance, and post deployment counseling (such as counseling for a return to civilian life). If they are not, what are the barriers?

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- What impact has the closure of military bases and hospitals had on the ability of California National Guard troops and their families to receive adequately and timely health and mental health services?
- What might the State do to address any health care access or other problems identified by the audit?

EMPLOYMENT

- Are California National Guard troops receiving timely payment for military services rendered upon activation and/or deployment, and if not, why not?
- Are California National Guard troops able to rely on their reemployment rights, including the following issues?
 - What is the efficacy and timeliness of dispute resolution for soldiers who did not receive reemployment, pay raises and/or promotions, as required by state and federal law.
 - How many Guard troops have filed for unemployment upon discharge from active duty?
- What might the State do to facilitate employment or reemployment for returning National Guard troops?

SUPERVISION, MATERIEL AND TRAINING

- Is the command structure of the California National Guard functioning in an effective and efficient manner that enables it to ensure that soldiers are receiving adequate supervision, materiel support and training, upon activation, prior to deployment and while deployed?

I believe this is an opportune time to evaluate the efficacy of state-approved military support programs. Thank you for your favorable consideration of this request.

Sincerely,

/s/

PEDRO NAVA

Assemblymember, 35th District