



Oklahoma



Connecticut

January 8, 2019

Honorable Patrick M. Shanahan
Acting Secretary of Defense
1010 Defense Pentagon
Washington, DC 20301-1010

Dear Secretary Shanahan:

Thank you for the opportunity to provide comments to the *Reimbursement for Certain Costs Incurred by States During Domestic Emergencies* report as required by the Senate Report 115-262 to S. 2987, the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

As you know, and as noted in the draft report, the Council of Governors (Council) worked extensively with the White House, Department of Defense (DoD) and Department of Homeland Security over the last year to identify ways to improve the response to disasters through the State-Federal Catastrophic Disaster Response Working Group. We commend the federal government for working with us to identify gaps and solutions, and the Council remains committed to the Working Group.

However, the Council has long noted that the lack of a formalized process/authority for governors to request from the federal government the activation of National Guard members to Title 32, section 502 (f) in the event of a catastrophic disaster is problematic and hurts the efficiency of the response and the protection of our service members responding to large scale, catastrophic disasters.

This is why after our July 2018 plenary meeting, the Council recommended that National Governors Association (NGA) urge Congress to provide the President and the Secretary of Defense, upon request from a governor, the authority to authorize Title 32, section 502 (f) for National Guard members supporting the response to a catastrophic disaster.

The NGA remains committed to this endeavor, and we continue to believe a change in law is required to rectify this gap.

Additionally, we did agree that funds are not appropriated specifically to DoD for operational Title 32. However, the question of whether your General Counsel evaluated the legality of the Federal Emergency Management Agency ability to use its Disaster Relief Fund to reimburse DoD for operational T32 costs associated when responding to a federal disaster was never answered.

It is important to note that governors are not requesting the use of Title 32 for every day disasters we see in our states. In most instances, our Emergency Management Assistance Compacts (EMAC) and the use of National Guard members in state active duty status are sufficient to meet the needs of disaster response. But, as seen in 2017 and 2018, large scale, catastrophic disasters

require a more dramatic, rapid and holistic response. We still believe the use of Title 32, 502(f) in these situations will improve our collective response, ease the economic burden on states and ensure the wellbeing of our National Guard members and their families.

Attached you will find additional comments from the Council to this report. We request you include this letter, and other additional correspondences from the Council to the Department of Defense with regards to the use of Title 32 as part of the package delivered to the Hill to meet this reporting requirement.

Thank you, and thank you for your continued support of the Council.

Sincerely,



Governor Mary Fallin
Governor of Oklahoma
Co-Chair, Council of Governors



Governor Dannel Malloy
Governor of Connecticut
Co-Chair, Council of Governors

Cc:

Senate Armed Services Committee
House Armed Service Committee
Assistant Secretary of Defense for Homeland Defense and Global Security
Administrator, Federal Emergency Management Agency