



# **ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES (EANGUS)**

## **STATEMENT FOR THE RECORD**

**THE UNITED STATES SENATE COMMITTEE ON VETERANS AFFAIRS**

on

**Pending Benefits Legislation**

May 13, 2015

***Enlisted Association of the National Guard of the United States***

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### **CHIEF MASTER SERGEANT JOHN HARRIS, USAF (RETIRED)**

Chief Master Sergeant John Harris, USAF (Retired), is the President of the Enlisted Association of the National Guard of the United States (EANGUS). He was overwhelmingly elected by membership of the association in August 2014. He served as a Joint Terminal Attack Controller, supporting the 256th Infantry BDE, 20th Special Forces Group, OEF Coalition Forces, and multiple Enhanced Separate Brigades of the Army National Guard. He mobilized in support of OPERATION DESERT STORM and deployed in support of OPERATION ENDURING FREEDOM. While serving as the State Command Chief Master Sergeant, the highest enlisted level of leadership in the Louisiana Air National Guard, Chief Harris represented the interests of the enlisted corps to The Adjutant General and served as an advisor to The Assistant Adjutant General for Air. During this time, he also served in the Louisiana National Guard Enlisted Association, the Counterdrug Task Force, the Louisiana Senior Executive Steering Committee, and was involved in fundraising efforts for the Louisiana National Guard Heroes Monument. Chief Harris holds a Master of Business Administration degree in Project Management from Grantham University. His numerous military decorations, including a Bronze Star, Meritorious Service Medal, Air Force Commendation Medal, Air Force Achievement Medal (with 3 Oak Leaf Clusters), Army Achievement Medal and the Louisiana Cross of Merit. He is a life member of the Enlisted Association of the National Guard of the United States and the Louisiana National Guard Enlisted Association.

### **DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS**

The Enlisted Association of the National Guard of the United States (EANGUS) does not currently receive, nor has the association ever received, any federal money for grants or contracts. All of the Association's activities and services are accomplished completely free of any federal funding.

## **S. 602, the GI Bill Fairness Act of 2015**

Association Response: EANGUS supports

### **Legislative Proposals to Implement Recommendations 11 and 12 of the Military Compensation and Retirement Modernization Commission**

#### **Recommendation 11. Educational Benefits**

The Military Services have repeatedly emphasized the importance of using education benefits as recruiting and retention tools. Ensuring the robustness of these programs is one of the best ways to guarantee the future of the All-Volunteer Force. There are duplicative and inefficient education benefits that should be eliminated or streamlined to improve the sustainability of the overall education benefits program. The Montgomery GI Bill Active Duty Assistance Program should be sunset in favor of the Post-9/11 GI Bill. Servicemembers who reach 10 years of service and commit to another 2 years should be allowed to transfer their Post-9/11 GI Bill benefits to dependents. The housing stipend of the Post-9/11 GI Bill should be sunset for dependents, as should unemployment compensation for anyone receiving a housing stipend.

#### **Association Stance on Recommendation 11**

The Montgomery GI Bill Selected Reserve is an important benefit to the National Guard and the association is happy that the Commissioners sustained it since there are no other education benefits that cover our constituency. Reducing housing stipends for dependents could burden those using GI Bill benefits because the average cost of typical room at a major university is quite high. The association understands that original cost estimates did not take into account University room and board because the benefit was intended for the servicemember to use at a later date, and typically the individual would not utilize expensive on campus housing because of their age.

#### **Recommendation 12. Transition Services**

Transitioning from the Military Services to civilian life is more challenging than it needs to be. Unemployment is still a challenge facing far too many veterans, especially for veterans aged 18 to 24, who had higher unemployment rates in 2013 than nonveterans of the same age group (21.4 percent and 14.3 percent, respectively). To better support transition and veteran employment, DOD should require mandatory participation in the Transition GPS education track. The Department of Labor should permit state departments of labor to work directly with 10 state VA offices to coordinate administration of the Jobs for Veterans State Grant program. Congress should require One-Stop Career Center employees to attend Transition GPS classes to develop personal connections between transitioning veterans and One-Stop Career Centers.

#### **Association Stance on Recommendation 12**

The association agrees that the Transition GPS curriculum is vital to transitioning servicemembers and that the entire Transition GPS program should be made available to National Guard members as well. As an aside, the increased emphasis towards transition programs will hopefully result in a subsequent decrease in unemployment compensation.

Topic: §12301. Reserve components generally

Proposed Change: Strike, “When authorized by the Secretary of Defense, the Secretary of a military department” and insert “The Secretary of a military department (when authorized by the Secretary of Defense), and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy”

Association Response: EANGUS supports

Topic: §3301(1)(C)(ii) regarding POTUS call to active duty under section 688

Proposed Change: insert “12301(h)”

Association Response: EANGUS supports

Topic: Subtitle C—Member Education and Training, Section 521

Proposed Change: strike “(b) Definition. In this section, the term *principal course of instruction* means any course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education.”

Association Response: EANGUS takes no position

Topic: Sec. 16131 (3)(B)(i) regarding Educational Assistance Program: Establishment; Amount

Proposed Change: Insert “12304a, or 12304b”

Association Response: EANGUS supports

Topic: Sec. 16133 (b)(4) regarding Time Limitation for Use of Entitlement

Proposed Change: Insert “12304a, or 12304b”

Association Response: EANGUS supports

Topic: Subtitle D—Defense Dependents’ Education and Military Family Readiness Matters, Subtitle E—Other Matters

Proposed Change to Duration of Program Authority: Strike “December 31, 2015” and insert “December 31, 2018”

Association Response: EANGUS supports

Topic: §4312 (c)(4)(A) regarding reemployment rights of persons who serve the uniformed services

Proposed Change: Insert “12304a, or 12304b”

Association Response: EANGUS supports

Topic: Section 542(c)

Proposed Change: Insert “Such relocation assistance programs shall ensure that members of the armed forces and their families are provide relocation assistance regardless of geographic location.” And strike: The Secretary shall establish such a program in each geographic area in which at least 500 members of the armed forces are assigned to or serving at a military installation, A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the technique and delivery of professional relocation assistance.”

Association Response: EANGUS takes no position

Topic: §1142(4) regarding Presentation counseling; transmittal of medical records to Department of Veterans Affairs

Proposed Change: Add Section “(C) For purposes of subparagraph (a), the term *active duty* does not include full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.”

Association Response: EANGUS supports

Topic: Veterans Benefits Act of 2003 (Public Law 108-183 – Dec. 16, 2003)

Proposed Change: Strike Sec. 601.

Association Response: EANGUS takes no position

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section 12301. The term “Secretary concerned” as defined in section 101 of title 10 includes the Secretary of Homeland Security.

**Budgetary Implications:** No additional costs are associated with the enactment of this proposal. This is a technical change to the statute, and is intended to clarify the authority of the Secretary of Homeland Security to retain or recall Coast Guard Reserve members on active duty for health care as a result of injury, illness, or disability experienced in the line of duty.

**Changes to Existing Law:** This proposal would make the following change to section 12301(h) of title 10, United States Code:

**§ 12301. Reserve components generally**

(a) \*\*\*

\* \* \* \* \*

~~(h)(1) When authorized by the Secretary of Defense, the Secretary of a military department~~ The Secretary of a military department (when authorized by the Secretary of Defense), and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may, with the consent of the member, order a member of a reserve component to active duty—

- (A) to receive authorized medical care;
- (B) to be medically evaluated for disability or other purposes; or
- (C) to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

\* \* \* \* \*

**Section 514.** Under the Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill), enacted as part of the Supplemental Appropriations Act, 2008 (Public Law 110-252, 122 Stat. 2358), a member of a reserve component of the Armed Forces presently accrues active-duty service time credit for the calculation of educational assistance benefits for service on active duty under a call or order to active duty only under sections 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10 or section 712 of title 14, United States Code. This proposal would expand these categories to include time served on active duty under 10 U.S.C. 12301(h). Under 12301(h), the Secretary of a military department may, with the with the consent of the member, order a member of a reserve component to active duty in order to: receive authorized medical care; be medically evaluated for disability or other purposes; or to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

Currently, when a reserve component (RC) service member is serving in a mobilized status and is injured, wounded, suffers a sexual assault, or requires other medical treatment, that service member is transitioned on orders to serve under 10 U.S.C. 12301(h) for evaluation and

treatment. This section is not included within the definition of 'active duty' for the purposes of Post-9/11 GI Bill entitlement. When an active component (AC) service member suffers the same types of injury, service continues in the regular component and that member continues to accrue qualifying time while undergoing the same evaluation and treatment. As detailed in the finding of Congress contained in section 5002 of the Supplemental Appropriations Act, 2008, particularly paragraphs (2), (5), and (6), these reserve component members answered a call to active duty and served under similar conditions to their active component counterparts; their service must similarly be honored.

Current law scenario:

1. A RC service member who is called to service under one of the applicable sections and has served at least 30 days, is wounded or injured, and then is discharged due to a service-connected disability, will qualify for the 100% tier for Post-9/11 entitlements per 38 U.S.C. 3313(c)(1). In this case, time served under 10 U.S.C. 12301(h) is irrelevant, as the RC service member qualifies based on the service during the initial 30 days and subsequent discharge.

2. A RC service member who is serving under one of the applicable qualifying Title 10 sections and becomes wounded or injured will be placed on orders under 10 U.S.C. 12301(h). The RC service member could spend significant time in evaluation, treatment, and recovery, none of which qualifies for Post-9/11 GI Bill entitlements. If an injured RC service member does not discharge (as in scenario 1) and instead returns to service none of the time spent in recovery is qualifying time, regardless of whether they are continuing a deployment or returning to the Selected Reserve. In this case, the SM would leave active status with less qualifying time than one who completed the entire period without an injury, and would not receive the same benefit tier as either their RC or AC counterparts. In effect, they are penalized for requiring medical evaluation or treatment during their service.

**Budget Implications:** The Department of Defense (DoD) has no responsibility for funding of the basic benefits of the Post-9/11 GI Bill. Costs for the Post-9/11 GI Bill are borne by the Department of Veterans Affairs, under the provisions of section 3324(b) of title 38, which states, "Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department for the payment of readjustment benefits." While DoD has estimates regarding the number of personnel affected and cost to carry out this proposal, there is no budget implication to DoD.

**Changes to Existing Law:** This proposal would make the following changes to section 3301 of title 38 United States Code:

### §3301. Definitions

In this chapter:

(1) The term "active duty" has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section

688, 12301(a), 12301(d), 12301(g), 12301(h), 12302, or 12304 of title 10 or section 712 of title 14.

(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—

(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or

(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. (B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12301(h), 12302, or 12304 of title 10.

(2) \* \* \* \*

### Subtitle C—Member Education and Training

**Section 521** would remove the statutory minimum residency requirements for Joint Professional Military Education (JPME) II courses taught at the Joint Forces Staff College (JFSC) and thereby allow the Secretary of Defense (SECDEF) and/or the Chairman of the Joint Chiefs of Staff (CJCS), consistent with authorities and responsibilities described in 10 U.S.C. 153, to determine the length for in-residence courses. The proposal also removes the “in residence at” requirement for all other JPME II-credit awarding schools and thereby allows the SECDEF or the CJCS to designate and certify various curricula and delivery methods, provided they adhere to joint curricula content, student acculturation, and faculty provisions established in 10 U.S.C. 2155 and CJCS Policy. These changes are designed to provide the Department of Defense (DoD) flexibility to leverage education technology and be better empowered to balance joint, interagency, intergovernmental, and multinational knowledge and acculturation requirements with additional and potentially more cost-effective methods of delivery for JPME phase II. DoD does not plan to create a fully non-resident JPME II course nor reduce the course’s educational requirements or objectives.

JPME is a three-phase approach to learning requirements associated with joint matters specified in 10 U.S.C. 2154. Learning requirements to achieve Joint Qualification Level III are available to Active and Reserve Component (AC, RC, respectively) members. Service Members receive JPME II credit by completing accredited instruction “in residence” at National Defense University (NDU) or Senior Level Service School (SLSS) programs. 10 U.S.C. 2154 and 2156 specify that JPME II courses must be “in-residence”; the “principal course” at the JFSC “may not be less than 10 weeks of resident instruction.

JPME II capacity by all sources amounts to nearly 1800 graduates annually, 1020 from the 10-week (“principal course”) Joint and Combined Warfighting School (JCWS) in Norfolk, VA; all others are graduates from 10 month master’s degree-level programs of the National Defense University (National War College, Eisenhower School, Joint Advanced Warfighting School) and four SLSSs. Although this throughput capacity is deemed sufficient to sustain Joint

~~(b) DEFINITION.— In this section, the term "principal course of instruction" means any course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education.~~

Section 522 would amend chapter 1606 of title 10, United States Code (U.S.C.), to designate active duty under two additional authorities (10 U.S.C. 12304a and 12304b) during which a service member's period of entitlement to, and payments for, the Montgomery GI Bill-Selected Reserve (MGIB-SR) education benefits are not lost. Specifically, this proposal would add 10 U.S.C. 12304a and 12304b to the existing list of authorities in 10 U.S.C. 16131 under which a service member may regain lost payments and both 10 U.S.C. 12304a and 12304b would be added to 10 U.S.C. 16133 under which a service member may regain lost entitlement time for MGIB-SR benefits.

The current lists of authorities cited in 10 U.S.C. 16131 and 16133 include authorities that may be used to order a service member to active duty without their consent. Sections 12304a and 12304b are additional authorities that may be used to order a service member to active duty without their consent. Therefore, sections 12304a and 12304b should be added to those authorities under section 16131 where service under these authorities would not count against a member's MGIB-SR benefit because he or she could not complete his or her studies due to activation. In addition, sections 12304a and 12304b are consistent with the current list of cited involuntary activation authorities and should be added to section 16133 so that service under these authorities is not counted against the time limit a member has to use his or her MGIB-SR benefit.

**Budgetary Implications:** No additional costs are associated with the enactment of this proposal. This proposal is a technical correction.

Section 12304a: When a Governor requests Federal assistance in responding to a major disaster or emergency, the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of not more than 120 days to respond to the Governor's request using the authority in 10 U.S.C. 12304a. The anticipated average time for Reserve members serving under section 12304a to respond to major disasters or emergencies is one week or less. A service member's VA-approved course of study should not be affected by one week of activation so as to require the service member to cancel and repeat the course of study. Outliers like Hurricane Katrina (longer calls to active duty) may occur in the future and service members may need to be activated for a period of time that will force them to repeat a course of study. Natural disasters like Katrina are impossible to model and are not expected to occur from fiscal year (FY) 2016 – FY 2020.

Section 12304b: 10 U.S.C. 12304b authorizes military Secretaries to order up to 60,000 Selected Reserve members to active duty to augment the active forces for a preplanned mission in support of a combatant command for up to 365 days without consent of the member. According to statute, these missions must be included in the appropriate fiscal year budget submission. OSD policy requires Services to notify their members a minimum of 180 days before mobilization.

Courses of study are scheduled by semesters that average a maximum of 5 months long. Six months (180 days) is adequate time for a Service member to complete their current class and/or change their future course of study at no cost to the member. However, Selected Reserve members may be activated in less than 180 days if an exception to policy is approved by the Secretary of Defense. When this happens, the Service member may be at risk to incur a cost. Exceptions to policy are rare and may occur from FY 2016 – FY 2020 in very small numbers. Therefore, due to the small numbers of personnel activated in less than 180 days under 12304b authority, DOD does not expect that the accrual funding rates will change by adding 12304b to section 16131.

**Changes to Existing Law:** This proposal would make the following changes to section 16131 and section 16133 of title 10, United States Code, as follows:

**SEC. 16131. EDUCATIONAL ASSISTANCE PROGRAM: ESTABLISHMENT;  
AMOUNT**

(a) \*\*\*

\* \* \*

(c)(1) Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

(2) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not-

(i) be charged against the entitlement of any individual under this chapter; or

(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual's receipt of assistance.

(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual-

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301 (a), 12301 (d), 12301 (g), 12302, ~~or~~ 12304, 12304a, or 12304b of this title; and

(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i), the individual's course pursuit.

\* \* \* \* \*

**SEC. 16133. TIME LIMITATION FOR USE OF ENTITLEMENT**

(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this chapter may use such person's entitlement expires on the date the person is separated from the Selected Reserve.

(b)(1) In the case of a person-

(A) who is separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter; or

(B) who, on or after the date on which such person became entitled to educational assistance under this chapter ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on December 31, 2001, or the period beginning on October 1, 2007, and ending on September 30, 2014, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 10143(a) of this title, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.

(2) The provisions of section 3031(f) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

(3) The provisions of section 3031(d) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

(4) In the case of a member of the Selected Reserve of the Ready Reserve who serves on active duty pursuant to an order to active duty issued under section 12301(a), 12301(d), 12301(g), 12302, ~~12304~~, 12304a, or 12304b of this title-

(A) the period of such active duty service plus four months shall not be considered in determining the expiration date applicable to such member under subsection (a); and

(B) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.

\* \* \* \* \*

## **Subtitle D—Defense Dependents' Education and Military Family Readiness Matters**

### **Subtitle E—Other Matters**

**Section 541** would extend and enhance authority to conduct programs authorized under section 533 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. prec. 701 note), informed by lessons learned to-date from Navy and Air Force implementation of the Career Intermission Pilot Program (CIP).

Extension and enhancement of this authority would afford the Secretaries of the military departments greater flexibility to test and evaluate alternative career retention options in

(i) the authorities of the pilot programs provided an effective means to enhance the retention of members of the Armed Forces possessing critical skills, talents, and leadership abilities;

~~(ii) the career progression in the Armed Forces of individuals who participate in the pilot program has been or will be adversely affected; and~~

(ii) the usefulness of the pilot program in responding to the personal and professional needs of individual members of the Armed Forces.

(C) Such recommendations for legislative or administrative action as the Secretary concerned considers appropriate for the modification or continuation of the pilot programs.

(l) DEFINITION.—In this section, the term “active Guard and Reserve duty” has the meaning given that term in section 101(d)(6) of title 10, United States Code.

(m) DURATION OF PROGRAM AUTHORITY.—No member of the Armed Forces may be released from active duty under a pilot program conducted under this section after ~~December 31, 2015~~ **December 31, 2018**.

**Section 542** would amend section 4312 of title 38, United States Code, to update the involuntary mobilization authorities exempted from the USERRA five-year limit under chapter 43 of that title (referred to as the Uniformed Services Employment and Reemployment Rights Act or USERRA). Adding references to sections 12304a and 12304b of title 10 will complete the list of current involuntary mobilization authorities exempted from that limit.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects individuals performing, or who have performed, uniformed service in accordance with 38 U.S.C. 4301-4335 from employment discrimination on the basis of their uniformed service, and provides for their prompt restoration to civilian employment when they return to civilian life. USERRA is intended to ensure that these uniformed service members are not disadvantaged in their civilian careers because of their service; are promptly reemployed in their civilian jobs upon their return from duty; and are not discriminated against in employment because of their military status or uniformed service obligations.

The purposes of USERRA are clearly stated in section 4301 of title 38, United States Code. Section 4301 states in part:

(a) the purposes of this chapter [USERRA] are—

(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their

communities, by providing for the prompt reemployment of such persons upon their completion of such service; and

(3) to prohibit discrimination against persons because of their service in the uniformed service.

USERRA was first designed in a time when Reserve and National Guard forces were intended to function as a strategic reserve. However, national defense strategy has changed and now regards the Reserves and National Guard as operational forces. As such, those forces are now called upon to perform not only the traditional duties in time of national emergency under extended active duty under title 10, United States Code, and certain duty under title 32. In accordance with the purposes above, section 4312(c) of title 38, United States Code, places a limit of five-years of active duty that may be performed without losing the protections of USERRA. Since September 11, 2001, the Department of Defense has relied heavily on activating various members of the Reserves and National Guard for multiple periods of active duty. However, in recognition of the change in national strategy several types of active duty, such as involuntary mobilizations, weekend drills, annual active duty, and exercises are exempted from the five-year limit. 38 U.S.C. 4312(c)(4)(A) already excludes 10 U.S.C. 688, 12301(a), 12301(g), 12302, 12304, and 12305, and 14 U.S.C. 331, 332, 359, 360, and 367, from the five year limit.

The National Defense Authorization Act for Fiscal Year (FY) 2012 added two new involuntary mobilization duty authorities to title 10. Section 12304a provides that when a Governor requests Federal assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of not more than 120 days to respond to the Governor's request. Section 12304b provides that when the Secretary of a military department determines that it is necessary to augment the active forces for a preplanned mission in support of a combatant command, the Secretary may, subject to subsection (b), order any unit of the Selected Reserve (as defined in section 10143 (a) of title 10), without the consent of the members, to active duty for not more than 365 consecutive days.

Such duty under sections 12304a and 12304b is not included among the exemptions listed under 4312(c) of title 38, United States Code. While the basic tenets of USERRA remain, the addition of active duty performed under sections 12304a and 12304b is appropriate and within the spirit of the purposes of USERRA.

**Budget Implications:** There is no cost to the service to implement the provisions of this proposal. The only action required is to include this provision in service USERRA policies and procedures. There will be an insignificant administrative burden placed on the services to include USERRA exemption statements on members' orders.

<b>RESOURCE REQUIREMENTS (\$MILLIONS)</b>
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	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Appropriation From	Budget Activity	Dash- 1 Line Item	Program Element
AIR FORCE	00.0	00.0	00.0	00.0	00.0		N/A	N/A	N/A
Total	00.0	00.0	00.0	00.0	00.0	--	--	--	--

**Changes to Existing Law:** This proposal would make the following changes to section 4312(c) of title 38, United States Code:

**§ 4312. Reemployment rights of persons who serve in the uniformed services**

(a) Subject to subsections (b), (c), and (d) and to section 4304, any person whose absence from a position of employment is necessitated by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if-

(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service-

(1) that is required, beyond five years, to complete an initial period of obligated service;

(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

(3) performed as required pursuant to section 10147 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

(4) performed by a member of a uniformed service who is—

(A) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, **12304a, 12304b**, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

~~(B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;~~

(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10;

(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services;

(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 12406 of title 10; or

(F) ordered to full-time National Guard duty (other than for training) under section 502(f)(2)(A) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds, as determined by the Secretary concerned.

(d) \*\*\*

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**Section 543** would provide the Restricted Reporting option (Confidential Reporting) in cases of sexual assault to service members and adult military dependents, preempting any State laws for mandatory reporting. An adult military dependent is a service member's dependent who is 18 years of age and older.

The reporting requirements regarding a sexual assault vary by State. Although most States do not require medical personnel to make a report to law enforcement when they have treated an adult who is a rape or sexual assault victim, State statutes may require that a report be made or that an abbreviated report is made. These laws may be broken down into the following categories in which medical personnel are required to report to law enforcement authorities:

- a. treatment specifically for rape or sexual assault;
- b. treatment for serious injuries, which may include rape (for example, gunshot wounds may require reporting – if a person was raped and shot, the rape would be reported along with the gunshot wound, even if the law does not specifically require reporting rape alone);
- c. treatment for other crimes or injuries that occur along with a sexual assault; and
- d. the completion of a sexual assault forensic examination.

These types of State laws have the effect of eliminating the Restricted Reporting option for service members and their adult military dependents who are victims of sexual assault. This prevents service members and their adult military dependents from receiving consistent healthcare, victim advocacy, and reporting options wherever they may be serving throughout the country. Mandatory reporting laws would still apply to military dependents who are 17 years of age and younger.

(c) ~~MILITARY RELOCATION ASSISTANCE PROGRAMS.—~~(1) The Secretary shall provide for the establishment of military relocation assistance programs to provide the relocation assistance described in subsection (b). Such relocation assistance programs shall ensure that members of the armed forces and their families are provided relocation assistance regardless of geographic location. The Secretary shall establish such a program in each geographic area in which at least 500 members of the armed forces are assigned to or serving at a military installation. A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the techniques and delivery of professional relocation assistance.

(2) The Secretary shall ensure that information available through ~~each military~~ a relocation assistance program shall be managed through a computerized information system that can interact with ~~all other~~ the military relocation assistance programs of the military departments, including programs located outside the continental United States.

(3) ~~Duties of each military relocation assistance program shall include assisting~~ Assistance shall be provided to personnel offices on the military installation in using the computerized information available through the program to help provide members of the armed forces who are deciding whether to reenlist information on locations of possible future duty assignments.

(d) ~~Director-Program Manager.—~~The Secretary of Defense shall establish the position of Program Manager of ~~Director of~~ Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Readiness and Force Management and Personnel). The Program Manager ~~Director~~ shall oversee development and implementation of ~~the~~ military relocation assistance programs under this section.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

**Section 545.** Section 1142 of title 10 U.S.C., states “the Secretary concerned shall not provide pre-separation counseling to a member who is being discharged or released before the completion of that member’s first 180 days of active duty.” The “first 180 days” on active duty can be misinterpreted to mean the first 180 cumulative days on active duty, as in the case of National Guard and Reserve Service members. This amendment would expressly exclude Service members serving on active duty for training (ADT) from receiving TAP; thus, the reason for the amendment.

This proposal would authorize Pre-separation, Employment Assistance and all other transition services prescribed in the Department of Defense (DoD) policy by the Secretary of Defense for ALL Active Component Service members of the Armed Forces and for ALL National Guard and Reserve Service members called or ordered to active duty or full-time operational support after

completion of their first 180 continuous days or more under Title 10, U.S.C., (other than for training) whose discharge or release from active duty is anticipated as of a specific date.

**Budgetary Implications:** This is a non-budgetary proposal, as no additional costs are associated with its enactment. This proposal is a clarification of language; therefore, there are no costs associated with this proposal.

**Changes to Existing Law:** This proposal would make the following changes to section 1142 and 1144 of Title 10, U.S.C., as amended:

**§1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs**

(a) REQUIREMENT.-(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned shall use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 continuous days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(C) For purposes of subparagraph (A), the term "active duty" does not include full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

(b) MATTERS TO BE COVERED BY COUNSELING.-Counseling under this section shall include the following:

- (1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.
- (2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.
- (3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.
- (4) Provision of information on civilian occupations and related assistance programs, including information concerning-
  - (A) certification and licensure requirements that are applicable to civilian occupations;
  - (B) civilian occupations that correspond to military occupational specialties; and
  - (C) Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program.
- (5) If the member has a spouse, inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs.
- (6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.
- (7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.
- (8) Counseling (for the member and dependents) on the effect of career change on individuals and their families and the availability to the member and dependents of suicide prevention resources following separation from the armed forces.
- (9) Financial planning assistance, including information on budgeting, saving, credit, loans, and taxes.
- (10) The creation of a transition plan for the member to attempt to achieve the educational, training, employment, and financial objectives of the member and, if the member has a spouse, the spouse of the member.
- (11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.
- (12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration.

(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

(15) Information concerning veterans preference in Federal employment and Federal procurement opportunities.

(16) Information on home loan services and housing assistance benefits available under the laws administered by the Secretary of Veterans Affairs and counseling on responsible borrowing practices.

(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs, and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits.

(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.-In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

## **TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**

### **Subtitle A—Pay and Allowances**

### **Subtitle B—Bonuses and Special Incentive Pays**

**Section 611** would extend until December 31, 2016 accession and retention incentives for certain nurses, psychologists, and medical, dental and pharmacy officers. Experience shows that manning levels in these health care professional fields would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and development of replacements. The Department of Defense and Congress have long recognized the prudence of these incentives in supporting effective personnel levels within these specialized fields.

This proposal also would extend two critical recruitment and retention incentive programs for Reserve component health care professionals. The Reserve components historically have found it challenging to meet the required manning in the health care professions. The incentive that targets health care professionals who possess a critically short skill is essential to meet required manning levels. In addition, the health professions loan repayment program has proven to be one of our most powerful recruiting tools for attracting health professionals trained in specialty areas that are critically short in the Selected Reserve. Extending this authority is critical to the continued success of recruiting skilled health professionals into the Selected Reserve. Finally, this section would extend the consolidated special and incentive pay authorities in section 335 of title 37, United States Code (Special

**Section 1041.** In support of the Secretary of Defense's March 14, 2011, efficiency initiatives “designed to reduce duplication, overhead, and excess, and instill a culture of savings and cost accountability across the Department of Defense [DoD],” DoD is recommending the repeal of the statutory requirement for a Federal Advisory Committee Act (FACA) advisory board for the Radiation Dose Reconstruction Program. DoD believes that this advisory board has achieved its objectives, and its functions can now be more effectively conducted through an interagency effort rather than through a FACA advisory board.

Beginning in 1978, radiation dose reconstructions have been performed for veterans with radiogenic diseases; in particular, atomic veterans. The term “atomic veteran” applies to United States (U.S.) military personnel who participated in the atmospheric testing of nuclear weapons from 1945 to 1962, or those who were either prisoners of war in Japan or stationed in Hiroshima or Nagasaki around the time the atomic bombs were detonated. Dose reconstruction is the scientific estimation of radiation dose levels received by a particular individual. These dose levels are used to determine the increased risk of cancer, illness, or other adverse health effects, as well as the compensation that will be provided to those individuals. The Veterans' Advisory Board on Dose Reconstruction (VBDR) is a Federal Advisory Committee composed of private sector experts and scientists, in addition to one representative each from the Defense Threat Reduction Agency and U.S. Strategic Command Center for Combating Weapons of Mass Destruction (DTRA/SCC-WMD), and the Department of Veterans Affairs (VA), who provide technical and academic advice on DoD’s Radiation Dose Reconstruction Program and the VA’s radiological disease claims processing procedures.

Due to the VBDR’s recommendations, the Radiation Dose Reconstruction Program is a mature program with established scientific procedures for determining the overall radiation doses received by affected individuals. In addition, the board’s recommendations have streamlined the VA’s atomic veteran’s claims processes, resulting in significant efficiencies and shortened processing times. To ensure sustained emphasis of this important program, DoD requests that the review and oversight functions of the VBDR be transferred to the Secretaries of Defense and Veterans Affairs.

**Budgetary Implications:** The board is jointly funded by DoD and VA, with DoD providing for the administration of the program. The fiscal year (FY) 2013 committee cost was \$427,233, and 0.9 man-years. The Board held no meetings in FY14. Of this total committee cost, the VA contributes approximately \$157,000. This total includes government salaries, member travel and per diem costs, the program support contract, and costs associated with holding an annual public meeting accessible to atomic veterans. The board’s recommended termination schedule included a final public meeting in July 2013 with the finalization and archival of files required by July 2014. The VBDR public website will be supported by DTRA/SCC-WMD for two years after termination. Savings to DoD after shutdown will be \$270,233 per year. This plan is dependent on DoD obtaining required Congressional relief.

	<b>Resource Requirements</b>		
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Savings	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Appropriation From	BA	Dash-1 Line Item
DoD	\$270,233	\$270,233	\$270,233	\$270,233	\$270,233	Operation and Maintenance, Defense-Wide	04	4GTN
VA	\$157,000	\$157,000	\$157,000	\$157,000	\$157,000			
<b>Total</b>	<b>\$427,233</b>	<b>\$427,233</b>	<b>\$427,233</b>	<b>\$427,233</b>	<b>\$427,233</b>	--	--	--

**Changes to Existing Law:** This proposal would amend section 601 of the Veterans Benefits Act of 2003 (Public Law 108-183, 117 Stat. 2667; prec. 38 U.S.C. 1154 note). The amendment to section 601 is a complete restatement of that section. The current text is set forth below. The proposed replacement text is in the legislative language at the beginning of this proposal.

**Veterans Benefits Act of 2003**  
(PUBLIC LAW 108-183 – DEC. 16, 2003)

**SEC. 601. ~~[38 USC 1154 note] RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE.~~**

~~\_\_\_\_\_ (a) REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION. — (1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Radiation Dose Reconstruction Program of the Department Of Defense.~~

~~— (2) In conducting the review under paragraph (1), the Secretaries shall~~

~~— (A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purposes of the program; and~~

~~— (B) determine the actions that are required to ensure that the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit Veterans to review the assumptions utilized in their dose reconstructions.~~

~~— (3) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth~~

~~— (A) the results of the review;~~

~~— (B) a plan for any actions determined to be required under paragraph (2); and~~

~~— (C) such other recommendations for the improvement of the mission, procedures, and administration of the Radiation Dose Reconstruction Program as the Secretaries jointly consider appropriate.~~

~~\_\_\_\_\_ (b) ON GOING REVIEW AND OVERSIGHT. The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose~~

Reconstruction Program, including the establishment of the advisory board required by subsection (c).

~~(c) ADVISORY BOARD. (1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Radiation Dose Reconstruction Program.~~

~~(2) The advisory board under paragraph (1) shall be composed of the following:~~

~~(A) At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.~~

~~(B) At least one expert in radiation health matters.~~

~~(C) At least one expert in risk communications matters.~~

~~(D) A representative of the Department of Veterans Affairs.~~

~~(E) A representative of the Defense Threat Reduction Agency.~~

~~(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.~~

~~(3) The advisory board under paragraph (1) shall~~

~~(A) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on Claims for service connection of radiogenic diseases;~~

~~(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program; and~~

~~(C) carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretaries shall jointly specify.~~

~~(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Radiation Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).~~

## TITLE XI—CIVILIAN PERSONNEL MATTERS

**Section 1101** would extend through fiscal year (FY) 2017 the discretionary authority of the head of an agency to provide to an individual employed by, or assigned or detailed to, such agency, allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980, if such individual is on official duty in Pakistan or a combat zone (as defined by section 112(c) of the Internal Revenue Code of 1986).

This authority has been granted since 2006 to provide certain allowances, benefits, and gratuities to individuals on official duty in Pakistan or a combat zone. The extension of the authority would ensure employees receive benefits promptly and for the periods of time when the conditions warrant the designation of a combat zone. This is a provision that applies to all Federal agencies, not just the Department of Defense (DoD), and is necessary to incentivize and support all Federal civilian employees taking assignments in Pakistan or a conflict zone.

**Budgetary Implications:** The costing methodology for this legislative proposal is based on the number of DoD civilian employees currently deployed to Pakistan or a combat zone, times the cost