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FY2017 National Defense Authorization Act: Selected Military Personnel Issues

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Committees of Congress

Summary

Military personnel issues typically generate significant interest from many Members of Congress and their staffs. The Congressional Research Service (CRS) has selected a number of the military personnel issues considered in deliberations on H.R. 4909 as passed by the House on May 26, 2016, S. 2943 as passed by the Senate on July 21, 2016, and the final enacted bill (P.L. 114-328) which was signed by the President on December 23, 2016. This report provides a brief synopsis of sections in each bill that pertain to selected personnel policies. These include issues such as military end-strengths, pay and benefits, military healthcare (TRICARE), military retirement, and other major policy issues.

This report focuses exclusively on the annual national defense authorization act (NDAA) legislative process. It does not include language concerning appropriations, or tax implications of policy choices, topics that are addressed in other CRS products. Issues that have been discussed in the previous year's defense personnel reports are designated with an asterisk in the relevant section titles of this report.

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Introduction

Each year, the House and Senate armed services committees take up national defense authorization bills. The House of Representatives passed the National Defense Authorization Act for Fiscal Year 2017 (H.R. 4909) on May 26, 2016. The Senate passed its NDAA bill (S. 2943) on June 14, 2016. These bills contain numerous provisions that affect military personnel, retirees, and their family members. Provisions in one version are sometimes not included in the other, are treated differently by, or are identical in both versions. Following passage of these bills by the House and by the Senate, a conference committee was convened to resolve the differences between the respective chambers' versions of the bill. The House and Senate agreed to the conference report on December 2, and December 8, 2016, respectively. The President signed the final bill into law (P.L. 114-328) on December 23, 2016.

This report is intended to highlight selected personnel-related issues that may generate high levels of congressional and constituent interest.

Related CRS products are identified in each section to provide more detailed background information and analysis of the issues. For each issue, a CRS analyst is identified and contact information is provided.

Some issues discussed in this report previously were addressed in the National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92) and discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen, or other reports. Those issues that were considered previously are designated with an asterisk in the relevant section titles of this report.

*Active Duty End-Strengths

Background: The authorized active duty end-strengths for FY2001, enacted in the year prior to the September 11 terrorist attacks, were as follows: Army (480,000), Navy (372,642), Marine Corps (172,600), and Air Force (357,000).[1] Over the next decade, in response to the demands of wars in Iraq and Afghanistan, Congress increased the authorized personnel strength of the Army and Marine Corps. However, in recent years Congress began reversing these increases in light of the withdrawal of U.S. forces from Iraq in 2011, the drawdown of U.S. forces in Afghanistan beginning in 2012, and budgetary constraints. End-strengths for the Air Force and Navy have been generally declining since 2001. Authorized end-strengths for FY2016 and FY2017 are in **Figure 1**.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 401 would authorize a total FY2017 active duty end-strength of 1,310,615 including	**Sec. 401** would authorize a total FY2017 active duty end-strength of 1,281,900 including	**Sec. 401** authorizes a total FY2017 active duty end-strength of 1,305,900 including
480,000 for the Army	460,000 for the Army	476,000 for the Army
324,615 for the Navy	322,900 for the Navy	323,900 for the Navy

[1] The term "end-strength" refers to the authorized strength of a specified branch of the military at the end of a given fiscal year, while the term authorized strength means "the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces." 10 U.S.C. §101(b)(11). As such, end-strengths are maximum strength levels. Congress also sets minimum strength levels for the active component, which may be identical to or lower than the end-strength.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
185,000 for the Marine Corps 321,000 for the Air Force	182,000 for the Marine Corps 317,000 for the Air Force	185,000 for the Marine Corps 321,000 for the Air Force
Sec. 402 would amend 10 U.S.C. §691 to set minimum end-strengths as follows:		**Sec. 402** amends 10 U.S.C. §691 to set minimum end-strengths as follows:
480,000 for the Army 324,615 for the Navy 185,000 for the Marine Corps 321,000 for the Air Force		476,000 for the Army 323,900 for the Navy 185,000 for the Marine Corps 321,000 for the Air Force

Discussion: In comparison to FY2016 authorized end-strengths, the Administration's FY2017 budget proposed lowering end-strengths for all services. The Senate bill approved end-strengths identical to the Administration's request. The House bill approved higher end-strengths than the Administration's request. The House-proposed increase was most noticeable for the Army (+5,000 compared to FY2016 authorized end-strength), although the Marine Corps and Air Force increased as well. The House provision reduced Navy end-strength, although this was still higher than the Administration request by 1,715. Section 402 of the House bill adjusted the minimum end-strengths required by 10 U.S.C. §619 to a level equal to the authorized end-strengths set in Section 401. The final bill sets the minimum end-strengths at a level equal to the authorized end-strengths for FY2017.

Figure 1. FY2017 Authorized Active Duty End-Strength

Comparison of FY2016 Enacted with FY2017 Enacted

	FY2016 Enacted	FY2017 Enacted	Change from FY2016
Army	475,000	476,000	↑ 1,000
Navy	329,200	323,900	↓ -5,300
Marine Corps	184,000	185,000	↑ 1,000
Air Force	320,715	321,000	↑ 285
Total Active Duty End-Strength	**1,308,915**	**1,305,900**	↓ **-3,015**

Notes: An up arrow indicates an increase from the FY2016 authorization, and a down arrow indicates a decrease from the FY2016 authorization.

Reference(s): Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

*Selected Reserves End-Strength

Background: The overall authorized end-strength of the Selected Reserves has declined by about 6% over the past 15 years (874,664 in FY2001 versus 818,000 in FY2016).[2] Much of this can be

[2] The Selected Reserves contain those units and individuals designated as so essential to initial wartime missions that they have priority over all other Reserves. Members of the Selected Reserve are generally required to perform one

attributed to the reductions in Navy Reserve strength during this period. There were also modest shifts in strength for some other components of the Selected Reserve. The authorized end-strengths for the Selected Reserve in FY2016 and FY2017 are in **Figure 2**.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 411 would authorize a total FY2017 Selected Reserve end-strength of 833,200 including:	**Sec. 411** would authorize a total FY2017 Selected Reserve end-strength of 808,200 including:	**Sec. 411** authorizes a total FY2017 Selected Reserve end- strength of 820,200 including:
Army National Guard: 350,000 Army Reserve: 205,000 Navy Reserve: 58,000 Marine Corps Reserve: 38,500 Air National Guard: 105,700 Air Force Reserve: 69,000 Coast Guard Reserve: 7,000	Army National Guard: 335,000 Army Reserve: 195,000 Navy Reserve: 58,000 Marine Corps Reserve: 38,500 Air National Guard: 105,700 Air Force Reserve: 69,000 Coast Guard Reserve: 7,000	Army National Guard: 343,000 Army Reserve: 199,000 Navy Reserve: 58,000 Marine Corps Reserve: 38,500 Air National Guard: 105,700 Air Force Reserve: 69,000 Coast Guard Reserve: 7,000

Discussion: For FY2017, the Administration requested a reduction in authorized Selected Reserves end-strength for four of the seven reserve components and increases for two. The Senate bill proposed end-strengths identical to the Administration request. The end-strengths authorized in the House bill were identical to the Administration's request for all but the Army National Guard and Army Reserve. The House bill would have increased the Army National Guard's end-strength to 350,000 and the Army Reserve's end-strength to 205,000.

Figure 2. FY2017 Authorized Reserve End-Strength

Comparison of FY2016 Enacted with FY2017 Enacted

	FY2016 Enacted	FY2017 Enacted	Change from FY2016
Army National Guard	342,000	343,000	↑ 1,000
Army Reserve	198,000	199,000	↑ 1,000
Navy Reserve	57,400	58,000	↑ 600
Marine Corps Reserve	38,900	38,500	↓ -400
Air National Guard	105,500	105,700	↑ 200
Air Force Reserve	69,200	69,000	↓ -200
Coast Guard Reserve	8,000	7,000	↓ -1,000
Total Reserve End-Strength	**819,000**	**820,200**	↑ **1,200**

Notes: An up arrow indicates an increase from the FY2016 authorization and down arrow indicates a decrease from the FY2016 authorization.

Reference(s): Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

weekend of training each month and two weeks of training each year, for which they receive pay and benefits. Some members of the Selected Reserve perform considerably more military duty than this, while others may only be required to perform the two weeks of annual training each year or other combinations of time. Members of the Selected Reserve can be involuntarily ordered to active duty under all of the principal statutes for reserve activation.

*Military Pay Raise

Background: Increasing concern with the overall cost of military personnel, combined with long-standing congressional interest in recruiting and retaining high-quality personnel to serve in the all-volunteer military, have continued to focus interest on the military pay raise. Section 1009 of Title 37 United States Code provides a permanent formula for an automatic annual increase in basic pay that is indexed to the annual increase in the Employment Cost Index (ECI). The statutory formula stipulates that the increase in basic pay for 2017 will be 2.1% unless either (1) Congress passes a law to provide otherwise; or (2) the President specifies an alternative pay adjustment under subsection (e) of 37 U.S.C. §1009. Increases in basic pay are typically effective at the start of the calendar year, rather than the fiscal year.

Congress has not included a provision specifying an increase in basic pay for the past three years (2014-2016). For each of these years the President invoked the alternative pay adjustment authority of 37 U.S.C. §1009(e), setting the pay raise below the ECI in each case.[3] The FY2017 President's Budget requested a 1.6% military pay raise, lower than the statutory formula of 2.1%.

House-passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 601 specifies that the automatic increase in basic pay under the statutory formula of 37 U.S.C. §1009 shall take effect, "notwithstanding any determination made by the President under subsection (e) of such section with respect to an alternative pay adjustment..."	**Sec. 601** would waive the automatic increase in basic pay under the statutory formula of 37 U.S.C. §1009, and specifies that the pay raise shall be 1.6%.	**Sec. 601** waives the automatic increase in basic pay under the statutory formula of 37 U.S.C. §1009, and specifies that the pay raise shall be 2.1%.

Discussion: The House bill would have required that the statutory formula go into effect, resulting in a 2.1% pay raise for all servicemembers effective on January 1, 2017. The Senate bill would have waived the automatic adjustment to basic pay specified in 37 U.S.C. §1009 and provided an increase of 1.6%, effective January 1, 2017.[4] The enacted bill waived the automatic adjustment and specified an increase of 2.1%, identical to the automatic adjustment, effective January 1, 2017.

Reference(s): For an explanation of the pay raise process and historical increases, see CRS In Focus IF10260, *Defense Primer: Military Pay Raise*, by Lawrence Kapp. Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen, and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

[3] For example, Congress did not enact a provision specifying an increase in basic pay for 2016. Thus, absent presidential action, the automatic formula would have provided an increase equal to the ECI (2.3%). However, on August 28, 2015, President Obama sent a letter to Congress invoking 37 U.S.C. §1009(e) to set the pay raise for 2016 at 1.3%. Letter available at https://www.whitehouse.gov/the-press-office/2015/08/28/letter-president-alternative-pay-plan-uniformed-services.

[4] With regard to Section 601 of the Senate bill, CBO noted: "Under current law, the across-the-board increase will be 2.1 percent, and CBO estimates the increase will cost $1.4 billion in 2017. This section would reduce that pay raise by 0.5 percentage points, to 1.6 percent. CBO estimates that such a change would reduce the cost of the pay raise by $338 million in 2017 and by almost $2.3 billion over the 2017-2021 period." Congressional Budget Office, *Cost Estimate* S. 2943 *National Defense Authorization Act for Fiscal Year 2017*, June 10, 2016, p. 10.

*Housing Allowances

Background: Under current law, all servicemembers are entitled to either government-provided housing or a housing allowance. For those living in the United States, the housing allowance is known as Basic Allowance for Housing (BAH). BAH is based on three factors: paygrade (rank), geographic location, and whether the servicemember has dependents. Paygrade and dependency status are used to determine the type of accommodation—or "housing profile"—appropriate for the servicemember (for example, one-bedroom apartment, two-bedroom townhouse, or three-bedroom single family home). Geographic location is used to determine the average costs associated with each of these housing profiles. BAH rates are higher in some areas than others, but servicemembers of similar paygrade and dependent status should be able to pay for roughly comparable housing regardless of their duty location.

House-passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
No similar provision	**Sec. 604** would add a new statutory provision defining how BAH would be calculated for certain members of the Armed Forces beginning on January 1, 2018. In comparison to the existing formula, significant changes involve eliminating dependents as a factor in setting BAH rates, requiring the rate be based on actual housing expenses, and reducing BAH for servicemembers who share housing.	**Sec. 604** requires DOD to provide the House and Senate Armed Services Committee with a report on transitioning from the current pay structure to a new "single-salary pay system" adequate to effectively recruit and retain a high-quality All-Volunteer Force, but which eliminates Basic Allowance for Housing and Basic Allowance for Subsistence. The report must include necessary legislative and administrative proposals, along with an implementation plan.

Discussion: The Senate bill would have altered the way in which BAH was calculated in several ways. For covered servicemembers, BAH would be based only on geographic location and paygrade of recipient, eliminating dependents as a factor in the rate determination. The Senate bill would have based BAH on actual servicemember housing expenditures up to a maximum amount for a given location/paygrade, rather than the current specified rate. The provision would also have changed how BAH was paid to servicemembers who share the same living quarters, reducing it in relationship to the number of people sharing the quarters. That is, if two or more servicemembers were to occupy the same housing, the amount of the allowance could not exceed "the amount of the allowance otherwise payable to such member ... divided by ... the total number of members occupying such housing." The new formula would have applied to certain members of the Armed Forces beginning on January 1, 2018. Members covered by the new provision would include servicemembers who first become entitled to basic pay on or after January 1, 2018, certain reserve and retired personnel ordered to active duty, and a servicemember entitled to the existing BAH on December 31, 2017, "within a particular housing or overseas area" and who "after that date, loses uninterrupted eligibility to receive a basic allowance for housing within an area of the United States or an area outside the United States, as applicable." The Senate provision also would have required the Secretary of Defense to submit the proposed regulations to implement this provision to the congressional defense committees by March 31, 2017. The House bill did not contain a similar provision.

The enacted bill requires DOD to provide the House and Senate Armed Services Committee with a report—by March 1, 2017—on transitioning from the current pay structure to a new pay

structure which would provide a "single-salary pay system" that is adequate to effectively recruit and retain a high-quality All-Volunteer Force, but which eliminates Basic Allowance for Housing and Basic Allowance for Subsistence. The conference report contained the following language to describe the provision:

> The conferees note that the BAH, as an entitlement, and the perception of BAH among servicemembers, has evolved over the past 20 years. BAH, and the iterations of the benefit that came before, was intended to provide a housing benefit for servicemembers to offset the cost of housing in high cost housing areas where adequate government-provided quarters was not available and in recognition of the transient nature of military service and the impact it has on military members and their families. Indeed, that the housing allowance was and is intended as primarily a housing benefit is demonstrated by its tax-free nature, the differentiation based on dependency status, and the fact that junior enlisted personnel required to reside in barracks or on a ship are ineligible to receive BAH. Accordingly, the conferees direct the Secretary of Defense to begin planning for a transition to a salary system that better aligns the payment of the allowance with the Department's use of the housing allowance as compensation rather than its intended purpose as an allowance.[5]

Reference: CRS Report RL33446, *Military Pay: Key Questions and Answers*, by Lawrence Kapp and Barbara Salazar Torreon.

CRS Point of Contact: Lawrence Kapp.

*Military Retirement System

Background: The military retirement system is currently a funded, noncontributory, defined benefit system that provides a monthly annuity to servicemembers after 20 years of qualifying service.[6] In the National Defense Authorization Act for FY2016 (P.L. 114-92) a number of changes were enacted to modernize the reduce the retirement system by reducing the retired pay multiplier, adding 401k-type defined contribution element, allowing for a partial lump-sum payment of retired pay, and adding continuation pay as a retention incentive. These changes will go into effect on January 1, 2018, for servicemembers entering on or after that date and those with 12 years or less of service on that date who are eligible and elect to enroll in the new system.[7]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 622 would allow continuation pay for full Thrift Savings Plan (TSP) members who have completed 8 to 12 years of service and would make changes to how continuation pay is calculated.	**Sec. 631** would clarify timing for cadets, midshipmen, and inactive reservists to be eligible to opt into the new retirement system. **Sec. 633** would allow continuation pay for full Thrift Savings Plan (TSP) members who have completed between 8 to 12 years of service and would make changes to how continuation pay is calculated. **Sec. 635** would express the sense of Congress that default TSP	**Sec. 631** is identical to the Senate provision. **Sec. 633** allows continuation pay for full Thrift Savings Plan (TSP) members who have completed between 8 to 12 years of service and changes how continuation pay is calculated.

[5] Conference Report 114-840 to accompany S. 2943.

[6] Disability retirees may be eligible for retired pay prior to 20 years of service.

[7] Reservists must have accumulated less than 12 years of *equivalent service* (<4,320 points) on January 1, 2018 to be eligible to opt into the new system.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
	contributions under the retired pay reform should be to a Roth plan.	

Discussion: The military retirement system has historically been viewed as a significant incentive in retaining a career military force and any changes are closely followed by active duty military and veterans' groups. Reductions in the retired pay multiplier from 2.5% to 2.0% for those joining on or after January 1, 2018, under the new system created last year have raised concerns about the services' ability to retain certain occupational specialties at the mid-career point. The FY2016 NDAA (P.L. 114-92) authorized DOD to provide continuation pay as a retention incentive at the completion of 12 years of service in return for an additional 4-year commitment to service. In conference, the House and Senate agreed on a provision (Section 633) that would authorize DOD the flexibility to pay continuation pay at any point between 8 to 12 years of service in return for an agreement for continued service of not less than 3 additional years. This provision will provide DOD more latitude in managing the personnel system through targeted continuation pay based on retention trends for specific military occupational specialties.

Section 633 of the enacted bill also adopts an amended House provision that amends 37 U.S.C. §356 procedures for calculating continuation pay minimums for active and reserve component members.[8] It will allow members of a reserve component performing active Guard or Reserve duty when they accept continuation pay to receive the same minimum pay as active duty members. The calculation of maximum pay for active and reserve component members remains the same.[9]

Section 635 of the Senate bill would have expressed the sense of Congress that default contributions to the TSP should be to a Roth plan. A Roth plan is taxable at the time of contribution but qualified distributions are not included in taxable income, allowing earnings to accrue tax-free. As such, a Roth plan is typically a better savings vehicle for young, low-income individuals who typically have a lower tax burden (e.g., junior officers and enlisted servicemembers) than they would expect to have in retirement.[10] This provision was not adopted.

Finally, Section 631 of the Senate bill was adopted and amends 10 U.S.C. §1409 to allow cadets, midshipmen, and reservists who are in inactive duty status prior to January 1, 2018, a 30-day election period for the new retirement system following commissioning or transfer to active duty or active status.

Reference(s): CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck. CRS Report RL34397, *Traditional and Roth Individual Retirement Accounts (IRAs): A Primer*, by John J. Topoleski. Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen and similar reports from earlier years.

CRS Point of Contact: Kristy N. Kamarck.

[8] Current law specifies a multiple of 2.5 for active component members and 0.5 for reserve component members.

[9] The FY2016 NDAA specified a maximum of 15.5 times monthly base pay for active component members (minimum 2.5 times plus up to 13 times monthly base pay) and a maximum of 6.5 times monthly base pay for reserve component members (0.5 times plus up to 6 times monthly base pay).

[10] There are some income limitations on eligibility to contribute to Roth IRAs.

Benefits to Former Spouses of Military Servicemembers

Background: Military servicemembers are eligible to receive retired pay after 20 qualifying years of service. In 1982, Congress enacted the Uniformed Services Former Spouses' Protection Act (USFSPA) which allowed state courts to treat disposable military retired pay as divisible property in divorce cases.[11] In addition, the law allows certain former spouses to remain eligible to receive certain military benefits or privileges. The USFSPA has since been modified on a number of occasions.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 625 would change the Uniformed Services Former Spouse Protection Act to use pay grade and years of service at time of divorce to calculate spousal share of retired pay.	**Sec. 642** would change the Uniformed Services Former Spouse Protection Act to use pay grade and years of service at time of divorce to calculate spousal share of retired pay.	**Sec. 641** changes the Uniformed Services Former Spouse Protection Act to use pay grade and years of service (as adjusted by annual retired pay cost-of-living adjustments) at time of divorce to calculate spousal share of retired pay.

Discussion: The amount of retired pay due to a servicemember is calculated based on the member's pay grade and years of service at the time of retirement. Currently up to 50% of a servicemember's disposable military retired pay may be divisible by the court in a single divorce case. Both the House and Senate proposed similar provisions that would change the definition of disposable retired pay to use the pay grade and years of service at time of a divorce court order rather than at the time of retirement. The enacted bill (§641) authorizes this change in the definition of disposable retired pay and also includes cost-of-living adjustments in the determination of spousal payments. This provision will not affect any divorce settlements that occurred prior to the date of enactment.

Reference(s): CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck, CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck, and CRS Report RL31663, *Military Benefits for Former Spouses: Legislation and Policy Issues*, by Kristy N. Kamarck.

CRS Point of Contact: Kristy N. Kamarck.

*Survivor Benefits

Background: A military retiree may have a portion of his or her monthly retired pay withheld in order to provide, after his or her death, a monthly survivor benefit to a surviving spouse or other eligible recipients. This is known as the Survivor Benefit Plan (SBP). When a servicemember dies, their survivor's payment through the SBP is usually 55% of the retired basic pay that the member would otherwise have been eligible to receive. Previously, for those servicemembers who died while on active duty, the base amount was calculated at 75% of their basic pay. For

[11] P.L. 97-252, codified in 10 U.S.C. §1408.

reservists who died during inactive-duty training (IADT), the base amount reflects their years of service, which causes the SBP payment to be less than if the member died on active duty. This disparate treatment was addressed in the FY2017 NDAA.

Surviving spouses who receive both an annuity from DOD as a beneficiary of the SBP and from the Department of Veterans Affairs' (VA) Dependency and Indemnity Compensation (DIC) have their SBP payments reduced by the amount of DIC.[12] Special Survivor Indemnity Allowance (SSIA) is a payment made to such surviving spouses to offset that reduction. The SSIA was previously set to expire at the end of FY2017.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 623 would extend authority for the special survivor indemnity allowance. **Sec. 624** would provide benefits under SBP for survivors of reserve component members who die in the line of duty during inactive-duty training.	**Sec. 643** would permanently extend payment of special survivor indemnity allowances under SBP. **Sec. 644** would authorize deductions of SBP premiums from combat-related special compensation when retired pay is not sufficient. **Sec. 645** would express a sense of Congress that members of the Armed Forces should be able to designate payment of the death gratuity to a trust for a special needs individual. **Sec. 646** would require an independent assessment of SBP.	**Sec. 642** provides equal benefits under SBP for survivors of reserve component members who die in the line of duty during inactive-duty training. **Sec. 643** authorizes deductions of SBP premiums from combat-related special compensation when retired pay not sufficient. **Sec. 646** extends payment of special survivor indemnity allowances under SBP until May 31, 2018. **Sec 648** requires an independent assessment of SBP.

Discussion: Sections 642, 643, 646, and 648 of the enacted bill included some of the provisions in the House-passed H.R. 4909 and Senate-passed S. 2943.

Section 642 of the enacted bill amends Section 1451(c)(1)(A) of Title 10, United States Code, to eliminate differential treatment under the SBP for reserve component and active component members who die from an injury or illness incurred or aggravated in the line of duty during inactive-duty training (IADT).

Section 643 amends Section 1452 of Title 10, United States Code, to allow DOD to withhold monthly SBP payments from Combat Related Special Compensation (CRSC) when retired pay is insufficient to cover the premiums. CRSC is considered "special compensation," not retired pay, and thus previously was not eligible to be used to cover SBP premiums.

Section 646 amends Section 1450(m) of Title 10, United States Code, to extend authority to pay SSIA until May 31, 2018. It also requires the Secretary of Defense to submit a report on those individuals affected by the offset no later than 90 days of enactment of this act. CBO has estimated that nearly 65,000 surviving spouses would receive the SSIA in FY2018.[13]

Section 648 requires the Defense Secretary to provide for an independent assessment of the SBP by a federally funded research and development center (FFRDC), and to submit a report on the

[12] For more on the SBP and DIC offset, see CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by William R. Morton; and CRS Report RL31664, *The Military Survivor Benefit Plan: A Description of Its Provisions*, by David F. Burrelli.

[13] Congressional Budget Office, *Cost Estimate* H.R. 4909 *National Defense Authorization Act for Fiscal Year 2017*, May 11, 2016, p. 21. Congressional Budget Office, *Cost Estimate* S. 2943 *National Defense Authorization Act for Fiscal Year 2017*, June 10, 2016, p.37.

results of assessment with recommendations to the House Committee on Armed Services and the Senate Armed Services Committee. Required elements of this report include the effectiveness of the SBP to provide for survivors of servicemembers dying on active duty and while in reserve active-status, comparison of the benefits of the SBP with those of other government and private sector employees, and the feasibility and advisability of providing survivor benefits through alternative commercially available insurance products.

Reference(s): CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by William R. Morton; CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck.

CRS Point of Contact: Barbara Salazar Torreon.

TRICARE Reform

Background: TRICARE is the DOD-administered health benefits program that covers active duty servicemembers, uniformed services retirees, their family members, and survivors. The Administration's FY2017 Budget proposed a package of health care enrollment fees, deductible, and co-pay changes phased in over several years. The proposals included

- replacing the TRICARE Prime, Standard, and Extra options with TRICARE Select and TRICARE Preferred options featuring a new annual enrollment period and a new benefit structure with enrollment fees, annual deductibles, co-payments, and annual catastrophic cap;
- annual enrollment fees for Medicare-enrolled retirees (with grandfathering of those Medicare-enrolled retirees already receiving TRICARE benefits at the time of enactment); and
- increased pharmacy co-pays for retirees and military family members, but not active duty members.

In addition to discretionary savings in the Defense Health Program appropriations account, the proposal would reduce TRICARE for Life expenditures. TRICARE for Life is funded on an accrual basis with each of the uniformed services making an annual payment to a fund known as the Medicare Eligible Retiree Health Care Fund (MERHCF). The MERHCF covers the accruing liability for the cost of future medical treatment provided to Medicare eligible uniformed services retirees and dependents by the TRICARE for Life program. For FY2017, the contribution to be paid into the MERHCF by each of the uniformed services will be $4,252 per active duty servicemember and $1,723 per reserve component member.[14] The Congressional Budget Office (CBO) analysis of TRICARE proposals in the President's Budget estimated that over the period of 2016 to 2026

- the pharmacy co-payment increases would save DOD $2.8 billion;
- the new TRICARE for Life enrollment fee would save $1.4 billion;
- the consolidation of TRICARE plans would cost DOD $0.2 billion; and
- the proposals would increase Medicare spending by $0.4 billion.[15]

[14] Department of Defense Office of the Actuary, Valuation of the Medicare-Eligible Retiree Health Care Fund, September 30, 2014, page 8, http://actuary.defense.gov/Portals/15/Documents/MERHCF%20Val%20Rpt%202014.pdf?ver=2015-12-31-093434-467.

[15] Congressional Budget Office, *Proposals for Health Care Programs-CBO's Estimate of the President's Fiscal Year*

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 701 would establish TRICARE Preferred as a self-managed, preferred-provider network option replacing TRICARE Standard and Extra. It would also establish annual enrollment fees and fixed dollar co-payments for active duty family members. A TRICARE Preferred annual enrollment fee could be established 90 days following submission of a report to Congress on access to care, network adequacy, and beneficiary satisfaction.	**Sec. 701** would establish TRICARE Choice as a self-managed, preferred-provider network option replacing TRICARE Standard and Extra. It would also establish new annual enrollment fees and co-payments for retired military servicemembers who are not eligible for Medicare coverage under either the new TRICARE Choice and under TRICARE Prime. In addition, it would establish a new TRICARE Supplemental that would provide secondary coverage to other employer sponsored health insurance. Beneficiaries under the program would pay an enrollment fee of one-half of the enrollment fee that would be assessed under TRICARE Choice.	**Sec. 701** establishes TRICARE Select as a self-managed, preferred-provider network option replacing TRICARE Standard and Extra effective January 1, 2018. This section also, - codifies tables of TRICARE Select and TRICARE Prime enrollment fees, deductibles, catastrophic caps, and co-payments; - establishes a calendar year enrollment period for those fees; - requires the Secretary to establish an open enrollment period, with a grace period during the first year of open enrollment; - allows enrollment for qualifying events for annual participation in either TRICARE Prime or TRICARE Select; - limits requirements for pre-authorization for referrals under TRICARE Prime; and - requires a pilot program on incorporation of value-based health care methodology in the purchased care component of the TRICARE program.

Discussion: Section 701 of the enacted bill will:

(1) establish a new TRICARE Select health plan option that would replace the current TRICARE Standard and Extra options, and would modify and retain the existing TRICARE Prime health maintenance organization style plan;

(2) establish tables in statute for both TRICARE Select and TRICARE Prime that would prescribe enrollment fees, deductibles, catastrophic caps, and co-payments for retirees joining TRICARE on or after January 1, 2018, and establish a calendar year enrollment period for those fees;

(3) require the Secretary to establish an open enrollment period, with a grace period during the first year of open enrollment, and allow enrollment for qualifying events for annual participation in either TRICARE Prime or TRICARE Select;

(4) limit requirements for pre-authorization for referrals under TRICARE Prime to inpatient hospitalization, inpatient care at a skilled nursing facility, and inpatient care at a rehabilitation facility;

2017 Budget, March 29, 2016, p. 7, https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/dataandtechnicalinformation/51431-HealthPolicy.pdf.

(5) require the Secretary of Defense, not later than June 1, 2017, to submit an implementation plan that would meet specified access criteria to the armed services committee and require the Comptroller General to review that plan; and

(6) require a pilot program on incorporation of value-based health care methodology in the purchased care component of the TRICARE program.

Beneficiary cost-sharing is further discussed below in the TRICARE Beneficiary Cost-Sharing and TRICARE Pharmacy Co-payment sections.

CRS Point of Contact: Don J. Jansen.

*TRICARE Beneficiary Cost-Sharing

Background: In its FY2017 budget request, the Administration proposed to replace the TRICARE Prime, Standard, and Extra health plan options with a consolidated plan, to increase co-pays for pharmaceuticals, and to establish a new enrollment fee for future enrollees in the TRICARE-for-Life program (that acts like a Medigap supplement plan for Medicare-enrolled beneficiaries).[16] The House-passed bill would have consolidated TRICARE Standard and Extra into a new TRICARE Preferred plan. The Senate-passed bill would have consolidated them into a new TRICARE Choice plan.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 701 would establish annual enrollment fees and fixed dollar co-payments for active duty family members and retirees who join the armed services on or after January 1, 2018, and enroll in TRICARE Preferred or in TRICARE Prime. This section would also establish an annual enrollment fee for TRICARE Preferred for beneficiaries who were in the active duty or retired categories prior to January 1, 2018.	**Sec. 701** would establish annual enrollment fees and a cost-share table for calendar year 2018 for both TRICARE Prime and TRICARE Choice that would establish rates for annual enrollment fees, annual deductibles, annual catastrophic caps, and co-payments for inpatient visits, outpatient visits, and other services. The provision would gradually increase the annual enrollment fee for military retirees and their families under TRICARE Choice over a period of five years through 2023. Subsequently, annual enrollment fees for military retirees and their families in TRICARE Choice after 2023, and for military retirees and their families under TRICARE Prime after 2018, would increase by the annual percent of the Consumer Price Index for Health Care Services.	**Sec. 701** establishes a cost-share table for calendar year 2018 for both TRICARE Prime and TRICARE Choice that specify rates for annual enrollment fees, annual deductibles, annual catastrophic caps, and co-payments for inpatient visits, outpatient visits, and other services. The fixed dollar amounts specified in the tables will be indexed to the annual increase in retired pay.

Discussion: Section 701 of the enacted bill amends Chapter 55 of Title 10 of the United States Code to include tables specifying cost-sharing amounts for active-duty family members and for retirees under the new TRICARE Select and the existing TRICARE Prime options (see **Table 1** and **Table 2**). The fixed dollar amounts in the tables will be annually indexed to the amount by

[16] Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, *United States Department of Defense Fiscal Year 2016 Budget Request Overview*, February 2015, pp. 6-12 to 6-15.

which retirement pay is increased. Exceptions to the cost-sharing amounts will be provided to disability retirees, their dependents, and survivors. Cost-sharing for TRICARE for Life beneficiaries would not change.

Table 1. TRICARE Select Cost-Sharing Amounts

Calendar year 2018

	Active Duty Family Member (Individual/Family)	Retired (Individual/Family)
Annual enrollment fee	$0	$450/$900
Annual deductible	E4 & below: $50/$100 E5 & above: $150/$300	$150/$300 Network $300/$600 out of network
Annual catastrophic cap	$1,000	$3,500
Outpatient visit civilian network	$15 primary care $25 specialty care 20% out of network	$25 primary care $40 specialty care 25% out of network
Emergency room (ER) visit civilian network	$40 network 20% out of network	$80 network 25% out of network
Urgent care civilian network	$20 20% out of network	$40 25% out of network
Ambulatory surgery civilian network	$25 network 20% out of network	$95 network 25% out of network
Ambulance civilian network	$15	$60
Durable medical equipment civilian network	10% of negotiated fee	20% of negotiated fee
Inpatient visit civilian network	$60 per network admission 20% out of network	$175 per network admission 25% out of network
Inpatient skilled nursing/rehab civilian	$25 per day network $50 per day out of network	$50 per day network Lesser of $300 per day or 20% of billed charges out of network

A "reserve and young adult" category also will be created for beneficiaries of the TRICARE Reserve Select and TRICARE Young Adult Program. Premiums under these two programs will continue to be calculated as before, however, the other new-cost sharing table provisions will apply as appropriate. Retired beneficiaries who were eligible for TRICARE prior to 2018 will be subject to a $150 individual or $300 family annual enrollment fee beginning 90 days after the Comptroller General submits a report to the armed services committees. The GAO report is required not later than February 1, 2020. The report will review the following: (1) whether health care coverage has changed since enactment of the Section 701 provisions, (2) whether beneficiaries are able to obtain appointments for health care appointments according to access standards to be established by the Secretary of Defense, (3) the percent of network providers that accept new TRICARE patients, and (4) the satisfaction of TRICARE Select beneficiaries.

Table 2. TRICARE Prime Cost-Sharing Amounts

Calendar Year 2018

	Active Duty Family Member (Individual/Family)	Retired (Individual/Family)
Annual enrollment fee	$0	$350/$700
Annual deductible	No	No
Annual catastrophic cap	$1,000	$3,500
Outpatient visit civilian network	$0	$20 primary care $30 specialty care
Emergency room (ER) visit civilian network	$0	$60 network
Urgent care civilian network	$0	$30 network
Ambulatory surgery civilian network	$0	$60 network
Ambulance civilian network	$0	$40
Durable medical equipment civilian network	$0	20% of negotiated fee, network
Inpatient visit civilian network	$0	$150 per admission
Inpatient skilled nursing/rehab civilian	$0	$30 per day network

TRICARE Prime beneficiaries that obtained care without a required referral would be required to either obtain a waiver or pay 50% of the allowed charge.

Reference(s): Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen, CRS Report R43647, *FY2015 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Barbara Salazar Torreon, and CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen.

CRS Point of Contact: Don J. Jansen.

*TRICARE Pharmacy Co-payments

Background: TRICARE beneficiaries have access to a pharmacy program that allows outpatient prescriptions to be filled through military pharmacies, TRICARE mail-order pharmacy, or TRICARE retail network and non-network pharmacies. Active duty servicemembers have no pharmacy co-payments when using military pharmacies, TRICARE Pharmacy Home Delivery, or TRICARE retail network pharmacies. Military pharmacies provide free-of-charge a 90-day supply of formulary medications for prescriptions written by either civilian or military providers. Non-formulary medicines generally are not available at military pharmacies. It is DOD policy to use generic medications instead of brand-name medications whenever possible. The 2016 NDAA (P.L. 114-92) (1) allowed a one-time $3 increase to retail and mail order pharmacy co-pays, and (2) required refills for maintenance drug prescriptions (e.g., medication for cholesterol, blood pressure) to be filled through mail order or military pharmacies, thereby eliminating the option to have these prescriptions filled through relatively higher-cost retail pharmacies. The

Administration's FY2017 budget request proposed a series of annual increases in the amount of co-payments for fiscal years 2017 through 2025.[17] DOD estimated the increases would avoid $300 million in FY2017 and $2 billion over the fiscal years 2017 to 2021.[18]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
No provision	**Sec. 702** would modify cost-sharing amounts for the TRICARE pharmacy benefits program for years 2017 through 2025. After 2025, DOD could establish cost-sharing amounts equal to the cost-sharing amounts for the previous year adjusted by an amount, if any, to reflect increases in costs of pharmaceutical agents and pharmacy dispensing fees.	No provision.

Discussion: The House-passed bill did not include a provision to allow a pharmacy co-payment increase. Under existing law the co-payment amounts would automatically increase at the same rate as the annual increase in retired pay.[19] Section 702 of the FY2016 NDAA (P.L. 114-92) overrode the statutory increase and substituted a $3 increase that took effect on February 1, 2016. Prior to that, Section 702 of FY2015 NDAA (P.L. 113-291) included a pharmacy co-payment increase that took effect on February 1, 2015.

Section 702 of the Senate-passed bill would have allowed beneficiaries to continue receiving drugs, at no cost, in military medical treatment facilities, and there would be no changes to cost-sharing amounts for survivors of members who died on active duty or for disabled retirees and their family members.

Section 702 would have also authorized the Secretary of Defense, based upon recommendations by the Department of Defense Pharmacy and Therapeutics Committee and review by the Uniform Formulary Beneficiary Advisory Panel, to exclude from coverage any drug that the Secretary determines provides little or no value to covered beneficiaries and DOD. Additionally, the Secretary could have given preferential status to any non-generic drug on the TRICARE formulary by treating it, for the purposes of cost-sharing, as a generic product under the TRICARE retail pharmacy and mail order options.

CBO estimated that implementing Section 702 would have reduced DOD's net discretionary pharmacy costs by about $640 million over the 2017-2021 period. CBO further estimated that Section 702 would reduce net health care spending for TRICARE for Life beneficiaries (who are eligible for Medicare) by $2.7 billion over the 2017-2026 period. Pharmacy spending for those beneficiaries is paid out from the DOD Medicare-Eligible Retiree Health Care Fund (MERHCF), a mandatory account. CBO estimated that implementing Section 702 would have reduced accrual payments into the MERHCF (that funds the TRICARE for Life program) by about $1.5 billion over the 2018-2021 period.[20]

[17] Department of Defense Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, *Overview Fiscal Year 2017 Budget Request*, 2016, p. 6-14.

[18] Ibid., p. 6-6.

[19] 10 U.S.C. §1074g(a)(6)(C).

[20] Congressional Budget Office, S. 2943 *National Defense Authorization, As reported by the Senate Committee on Armed services on May 18, 2016*, Cost Estimate June 10, 2016, pp. 8, 18, 31 and 33.

Reference(s): Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen, CRS Report R43647, *FY2015 National Defense Authorization Act: Selected Military Personnel Issues*, and CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*.

CRS Point of Contact: Don Jansen.

Administration of the Defense Health Agency and Military Medical Treatment Facilities

Background: The Defense Health Agency (DHA) was formed October 1, 2013, as a joint, integrated combat support agency. Its purpose is to enable Armed Forces medical services to provide a medically ready force and a ready medical force to combatant commands. It currently manages shared services as well as the TRICARE program and acts as the market manager for the National Capital Region enhanced Multi-Service Market, which includes Walter Reed National Military Medical Center and Fort Belvoir Community Hospital. The service surgeons general currently oversee management of military treatment facilities (MTFs).[21]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 702 would, beginning October 1, 2018, make the Director of the DHA responsible for the administration of MTFs to include budget, information technology, administrative policy and management, and any other matter the Secretary of Defense determines appropriate. **Sec. 703** would amend Title 10 of the United States Code to include new Section 1073d specifying requirements for MTFs. The Secretary of Defense would be required to submit an update to the Military Health System Modernization Study dated May 29, 2015.	**Sec. 721** would require the Secretary of Defense to disestablish the services' medical departments and consolidate their activities into the Defense Health Agency. **Sec. 725** would authorize DOD to realign the infrastructure and services offered at MTFs. **Sec. 729** would require the Secretary of Defense to establish regional centers of excellence for the provision of specialty care to covered beneficiaries at major DOD medical centers.	**Sec. 702** requires the Director of the Defense Health Agency, beginning October 1, 2018, to take responsibility for the administration of each MTF, including all matters with respect to budget, information technology, health care administration and management, administrative policy and procedure, military medical construction, and any other matters the Secretary determines appropriate. It requires the establishment of a professional staff within the DHA, and codifies the roles and responsibilities of the services' Surgeons General. The Secretary of Defense is required to develop an implementation plan and reports to the armed services committees. The Comptroller General is required to review DOD's plans. **Sec. 703** requires the Secretary of Defense to maintain medical centers, hospitals, ambulatory care centers, and satellite centers, to support the medical readiness of the Armed Forces and the readiness of medical personnel in areas where civilian health care

[21] Military treatment facility (MTF) is a term for military hospitals, outpatient clinics, and dental clinics generally and is used interchangeably with "military medical facility."

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
		facilities are unable to support the health care needs of the Armed Forces and covered beneficiaries.

Discussion: The conference report states:

> After careful study and deliberation, the conferees conclude that a single agency responsible for the administration of all MTFs would best improve and sustain operational medical force readiness and the medical readiness of the Armed Forces, improve beneficiaries' access to care and the experience of care, improve health outcomes, and lower the total management cost of the military health system. The conferees believe that the current organizational structure of the military health system—essentially three separate health systems each managed by one of the three Services—paralyzes rapid decision-making and stifles innovation in producing a modern health care delivery system that would better serve all beneficiaries. A streamlined military health system management structure would eliminate redundancy and generate greater efficiency, yielding monetary savings to the Department while leading to true reform of the military health system and improving the experience of care for beneficiaries.[22]

To do this, Sections 702 and 703 of the conference bill combined provisions of Sections 721, 725, and 729 of the Senate bill and Sections 702 and 703 of the House bill.

Section 702 of the enacted bill requires the Director of the Defense Health Agency, beginning October 1, 2018, to take responsibility for the administration of each MTF, including all matters with respect to

- budget;
- information technology;
- health care administration and management;
- administrative policy and procedure;
- military medical construction; and
- any other matters the Secretary determines appropriate.

Section 702 requires the establishment of a professional staff within the Defense Health Agency to provide policy, oversight, and direction of all matters related to the administration of MTFs.

Section 702 also codifies the roles and responsibilities of the services' Surgeons General. Each service's Surgeon General will serve as the principal advisor to the Secretary and senior uniformed officer of their respective service on health and medical matters. In addition they shall recruit, organize, train, and equip, the medical personnel of their respective services.

Section 702 also requires the Secretary to develop an implementation plan and to submit

- an interim report providing a preliminary draft of the plan to the armed services committees by March 1, 2017; and
- a final report to the committees by March 1, 2018, containing a final version of the plan.

[22] H.Rept. 114-840, page 1066.

Finally, the provision would require the Government Accountability Office to submit to the committees a review of preliminary draft of the DOD implementation plan by September 1, 2017, and a review of the final version of the plan by September 1, 2018.

Section 703 of the enacted bill adds a new Section 1073d "Military medical treatment facilities" to Chapter 55 of Title 10 of the United States Code that would require the Secretary of Defense to maintain medical centers, hospitals, ambulatory care centers, and satellite centers, "to support the medical readiness of the armed forces and the readiness of medical personnel" in areas where civilian health care facilities are unable to support the health care needs of the Armed Forces and covered beneficiaries. The provision provides an exception when the Secretary determines that a change in facilities or services eliminates the ability of a covered beneficiary to access care through non-DOD providers.

CRS Point of Contact: Don J. Jansen.

*Active and Reserve Enlistment Qualifications

Background: Current law for active component enlistees (10 U.S.C. §504) requires that they be (1) a national of the United States (i.e., either a citizen or a non-citizen who owes permanent allegiance to the United States—a category limited primarily to those born in American Samoa), (2) a lawful permanent resident, or (3) a person described in the Compact of Free Association between the United States and Micronesia, the Marshall Islands, and Palau. Current law for reserve component enlistees (10 U.S.C. §12102) requires that they be either citizens or lawful permanent residents, or have previously served in the Armed Forces. These citizenship requirements may be waived under 10 U.S.C. §504 "if the Secretary determines that such enlistment is vital to the national interest."

House-passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
No similar provision	**Sec. 537** would amend 10 U.S.C. §12102(b) to specify that persons enlisting in the reserve components meet the citizenship/residency requirements specified in 10 U.S.C. §504(b), which governs active component enlistments.	No similar provision.

Discussion: The Senate bill would have amended the statutory requirements to enlist in the reserve components so they would be tied to the citizenship/residency requirements for the active component. The conference bill did not include the Senate provision.

CRS Point of Contact: Lawrence Kapp.

Military Parental Leave

Background: Chapter 40 of Title 10 United States Code provides the authority for military leave entitlement, accumulation, and use. On January 28, 2016, Secretary of Defense Ashton Carter announced that DOD would be establishing new policies for maternity and parental leave as part of the department's "Force of the Future" initiative designed to attract and retain talent in the Armed Forces. Existing DOD policy defined maternity leave as, "a convalescent period up to 6 weeks following pregnancy and childbirth." The new policy, as announced, extended the period of maternity leave up to 12 weeks. DOD also sought legislative action to extend parental leave up

to 14 days. Parental leave for a servicemember whose spouse gives birth was first authorized in the National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417) and is currently authorized for a maximum of 10 days. Since 2006 (P.L. 109-163), a servicemember who adopts a child is eligible for up to 21 days of leave to be used in connection with an adoption. In dual-service married couples, only one servicemember is eligible to take this leave in connection with the adoption. Parental leave is in addition to regular accrued annual leave.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 522 would amend Section 701(i) of Title 10, United States Code, to provide adoption leave to the second parent of a dual military couple. **Sec. 529** would allow parental leave of at least 14 days for a servicemember whose spouse gives birth. It would allow a total of 36 days of leave (split between parents) for adoption of a child by married dual-service couples.	**Sec. 532** would allow a military primary caregiver to take up to 6 weeks of leave (in addition to convalescent leave) in connection with the birth or adoption of a child. It would allow a secondary caregiver to take 21 days of leave in connection with such an event. Finally, it would prohibit members of the Armed Forces from granting any leave that is not authorized by law.	**Sec. 521** authorizes up to 12 weeks of total leave (including up to 6 weeks convalescent leave) for the primary caregiver in connection with the birth of the child. It also authorizes 6 weeks of leave for a primary caregiver in the case of an adoption of a child and up to 21 days of leave for a secondary caregiver in the case of a birth or adoption. Finally, the provision would also create a new statute (10 U.S.C §704a) that would prohibit leave being authorized, granted, or assigned, including uncharged leave, unless expressly authorized by law.

Discussion: Section 521 of the enacted bill adopts the Senate provision which authorizes up to 12 weeks of total leave (including up to 6 weeks convalescent leave) for the primary caregiver in connection with the birth of the child.[23] It also authorizes 6 weeks of leave for a primary caregiver in the case of an adoption of a child. Secondary caregivers could be awarded up to 21 days of leave in connection with a birth or adoption. This section requires the Secretary of Defense to prescribe regulations defining "primary" and "secondary" caregivers for the purpose of this leave benefit. The leave taken in connection with the birth or adoption may only be in one increment and must be taken within a year of the event. To be eligible for this leave, the individual must be a member of the active component or a member of a reserve component performing active Guard and Reserve duty or subject to an active duty recall or mobilization order in excess of 12 months. Although parental leave authorized by this provision is in addition to any other leave a servicemember may have earned, this section also would allow the Secretary of Defense to prescribe regulations that would require a servicemember to extend their service obligation or to incur a reduction in their existing leave in their account when taking parental leave.

Section 521 of the final bill also adopted a Senate-proposed provision that adds Section 704a, Title 10 United States Code explicitly prohibiting any leave from being awarded to military servicemembers outside of what is authorized by statute. According to the conference report, "The committee considers this provision necessary to clarify that military leave is established by law and may not be created without express congressional authority."[24] Approximately 60% of the active duty force has a dependent spouse and/or children and 6.4% are in a dual-military

[23] Additional convalescent leave may be authorized if specifically recommended, in writing, by a medical provider of the member to address a diagnosed medical condition and approved by the commander of the member.

[24] U.S. Congress, House of Representatives, *National Defense Authorization Act for Fiscal Year 2017*, Conference Report to Accompany S. 2943, 114th Cong., 2nd sess., November 2016.Pdf. P. 2429.

marriage.[25] Supporters of paid parental leave suggest that it encourages workforce recruitment and retention by making Armed Forces benefits more competitive with private sector benefits, and that additional leave helps support the well-being of military families. Those opposed to lengthening military maternity and parental leave suggest that it could negatively impact military readiness due to lost duty time and potentially undermanned units.

CRS Point of Contact: Kristy N. Kamarck.

*Defense Commissary System

Background: Over the past few years, Congress has been concerned with improving the Defense Commissary (DeCA) system but there have been no changes enacted. In FY2016, Congress authorized $1.4 billion in commissary funding—$100 million more than the President's budget request.[26] The President's FY2017 budget request proposed $1.2 billion for commissaries, a reduction of $200 million in subsidies for stateside commissaries from FY2016.[27] Authorized patrons currently include active duty military members, Guard and Reserve component members, retired personnel and their families, 100% disabled veterans, Medal of Honor recipients, and DOD civilians stationed at U.S. installations overseas.

The FY2016 NDAA (Section 651, P.L. 114-92) required the Secretary of Defense to submit a report to the armed services committees with a plan to obtain budget neutrality for DeCA and the military exchange system. The FY2016 NDAA specified that any changes to the commissary system must maintain current levels of patron savings and satisfaction. The report, *Plan to Obtain Budget Neutrality for Commissary and Exchange System*, was released by DOD on June 7, 2016.[28] This report acknowledges that "privatization would not be able to replicate the range of benefits, level of savings and geographic reach provided by DeCA while achieving budget neutrality." Some critics of privatization maintain that there are too many unknowns and that this report and others should be fully evaluated by DOD and Congress before initiating a pilot program.

Furthermore Section 651, subpart (d), directed the Comptroller General to submit an assessment of DOD's June 2016 plan. This assessment, *DOD Commissaries and Exchanges: Plan and Additional Information Needed on Cost Savings and Metrics for DOD Efforts to Achieve Budget Neutrality*, was published on November 9, 2016. This assessment specified that DOD's report does not provide a plan for achieving budget neutrality in the commissary and exchange systems by October 2018, to operate without any taxpayer dollars and without negatively affecting commissary and exchange benefits.[29] According to GAO, the DOD report addressed three of the seven mandated benchmarks (customer satisfaction, quality of products, and patron savings) but did not define specific metrics for each of the benchmarks, and only partially discussed the other

[25] Department of Defense, *2014 Demographics: Profile of the Military Community*, 2014, p. 131, at http://download.militaryonesource.mil/12038/MOS/Reports/2014-Demographics-Report.pdf.

[26] P.L. 114-92, See §651. Plan to obtain budget-neutrality for the defense commissary system and the military exchange system, and §652. Comptroller General of the United States report on the Commissary Surcharge, Non-appropriated Fund, and Privately-Financed Major Construction Program.

[27] Department of Defense Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, *Overview Fiscal Year 2017 Budget Request*, February 9, 2016, Figure 6-1. Pay & Benefits Funding (PDF p. 53).

[28] Department of Defense, *Plan to Obtain Budget Neutrality for Commissary and Exchange System*, May 2016, at http://www.inhofe.senate.gov/download/?id=F0D2678F-60C4-497F-AFCA-0319C84F9A57&download=1.

[29] Government Accountability Office, *DOD Commissaries and Exchanges: Plan and Additional Information Needed on Cost Savings and Metrics for DOD Efforts to Achieve Budget Neutrality*, GAO-17-38, November 2016, at http://www.gao.gov/assets/690/680925.pdf.

four mandated elements (establishment of common business processes at DeCA and exchanges; privatization of commissaries and exchanges; description of the impact of closing commissaries; and the analysis of different pricing options at commissaries).

In addition, Section 652 of the FY2016 NDAA required the Comptroller General of the United States to submit a report on the Commissary Surcharge, Non-appropriated Fund, and Privately-Financed Major Construction Program of the Department of Defense. This report is pending.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 631 would provide protections and enhancement of access to and savings at commissaries and exchanges.	**Sec. 661** would provide protection and enhancement of access to and savings at commissaries and exchanges.	**Sec. 661** provides protections and enhancement of access to and savings at commissaries and exchanges.
Sec. 632 would authorize acceptance of Military Star Card at commissaries.		**Sec. 662** authorizes acceptance of Military Star Card at commissaries.

Discussion: Sections 661 and 662 of the enacted bill are similar to provisions in both the House-passed H.R. 4909 and Senate-passed S. 2943 versions that allow DeCA to set prices for merchandise sold in commissaries based on market conditions and customer demand, and authorize the use of the Military Star Card as a form of accepted payment at commissaries. The conference report notes that these reforms to the commissary system would preserve the benefit, while also making improvements to ensure continued savings for patrons, a good value for taxpayers, and ongoing support for morale, welfare, and recreational (MWR) activities. Reforms include regular congressional oversight of improvements, establishment of common business practices such as engaging expert commercial advice, and implementing private sector initiatives such as variable pricing and the development of private label products.

Under current law, DeCA is required to set prices at levels necessary to recover the actual cost of the merchandise plus any costs to replace damaged, deteriorated, or lost inventory.[30] According to CBO, DeCA is expected to implement this provision by offering private label goods[31] under a variable pricing program that would allow DeCA to add a markup to those private label goods and use the proceeds to offset its operating costs.[32] CBO estimates that proceeds from the markup in prices would decrease direct spending by less than $500,000 over the next decade (2017-2026).[33]

Section 661 of the enacted bill requires DOD to develop and implement a strategy to optimize practices across the DeCA and the military exchange network with the objective to reduce reliance on appropriated funds without compromising patrons' commissary benefits or the revenue generated by DOD's non-appropriated fund entities. Commissaries could use flexible product pricing that would need to ensure the current level of savings is maintained. DOD will be allowed to convert the commissary agency to a non-appropriated fund entity if established benchmarks are met and savings are maintained for at least six months. If conversion to a non-appropriated fund entity occurs, the Defense Secretary would be required to ensure that no current DeCA employee would incur a loss or decrease in pay resulting from the conversion. This

[30] The commissary benefit is codified in 10 U.S.C., chapter 147.

[31] Private label products are offered by a retailer under the retailer's own, in-house brand or under a brand developed by its suppliers. Retailers are able to do this by working directly with suppliers.

[32] Congressional Budget Office, *Cost Estimate* H.R. 4909 *National Defense Authorization Act for Fiscal Year 2017*, May 11, 2016, p. 26.

[33] Ibid.

provision would also allow DOD to enter into contracts with commercial grocery industry experts to assist in the transformation of the commissary system into a high-performing grocery operation.

Section 662 of the conference report authorizes acceptance of the Military Star Card, an Army and Air Force Exchange Service (AAFES) administered credit card, as a form of payment for goods and services at commissary stores.

Reference(s): CRS Report R44019, *Fact Sheet: Selected Highlights of the FY2016 Defense Budget Debate and the National Defense Authorization Acts (H.R. 1735 and S. 1356)*, by Pat Towell; CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen.

DOD, *Plan to Obtain Budget Neutrality for Commissary and Exchange System*, May 2016.

DODIG Memorandum, Audit of Fresh Produce Contracts for the U.S. Pacific Command Theater, August 5, 2016, (Project No. D2016-D000AJ-0186.000) at http://www.dodig.mil/ELetter/Documents/announcementProjects/D2016-D000AJ-0186.000.pdf.

GAO-17-38, *DOD Commissaries and Exchanges: Plan and Additional Information Needed on Cost Savings and Metrics for DOD Efforts to Achieve Budget Neutrality* [Reissued on November 14, 2016].

CRS Point of Contact: Barbara Salazar Torreon.

Servicemember Education, Credentialing, and Transition

Background: In the past few decades, Congress has enacted legislation and appropriated funds for servicemember off-duty education (tuition assistance), credentialing programs, and transition services to support servicemembers and veterans in successfully translating military skills and experience into post-service education and employment opportunities. Three programs of note are the Transition Assistance Program (TAP);[34] the Credentialing Opportunities Online (COOL);[35] and the DOD Skillbridge program, which is also known as the Job Training, Employment Skills Training, Apprenticeships, and Internships (JTEST-AI) program.[36]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 561 would modify the quality assurance requirements for military skills credentialing programs.	**Sec. 561** would limit tuition assistance funds to professional development courses.	**Sec. 561** modifies the quality assurance requirements for military skills credentialing programs.
Sec. 563 would require a report by DOD and the Coast Guard on	**Sec. 562** would modify the quality assurance requirements for military skills credentialing programs.	**Sec. 562** adopts the House provision requiring pre-separation

[34] The military Transition Assistance Program (TAP) was established in the National Defense Authorization Act (NDAA) for Fiscal Year 1991 (P.L. 101-510, Section 502) and codified in 10 U.S.C. §1142. This program provides counseling services and workshops to help servicemembers transition into the civilian workforce.

[35] The COOL program is authorized by Section 2015 of Title 10 United States Code and it provides funded vouchers to help servicemembers pay for exams and maintenance of civilian certifications and licenses. The program is funded through COOL funds, tuition assistance funds, and through individual GI Bill benefits.

[36] JTEST-AI includes civilian job training for transitioning military servicemembers up to six months prior to separation. It includes both apprenticeships and internships. The training must offer a high probability of employment and be provided to the servicemember at little or no cost.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
the Military-to-Mariner Transition program. **Sec. 566** would authorize DOD to initiate a job placement pilot program for members of the National Guard and Reserve. **Sec. 569** would require pre-separation counseling on treatment and resources for substance abuse. **Sec. 569A** would require notification about veterans' disability compensation deductions for separating servicemembers. **Sec. 569B** would require a report on the JTEST-AI program. **Sec. 599A** would require a report on availability of college credit for skills acquired during military service. **Sec. 3510** would prioritize processing of transportation security cards for separating servicemembers. **Sec. 3511** would require training on transportation security card opportunities to be included in TAP.	**Sec. 563** would provide DOD installation access to certain institutions of higher education that provide advice and support to servicemembers. **Sec. 564** would prioritize processing of transportation worker identification credential (TWIC) for separating servicemembers.	counseling on treatment and resources for substance abuse. **Sec. 563** adopts the House provision requiring notification about veterans' disability compensation deductions for separating servicemembers **Sec. 564** adopts the House provision requiring training on transportation security card opportunities to be included in TAP. **Sec. 567** adopts the House provision requiring a report on the JTEST-AI program. **Sec. 568** adopts the House provision requiring a report by DOD and the Coast Guard on the Military-to-Mariner Transition program. **Sec. 3509** sets processing deadlines for transportation worker identification credentials (TWIC) for separating servicemembers.

Discussion: Section 561 of the final bill eliminates "the requirement that credentialing programs be accredited by third party accreditation bodies, and instead would require that credentialing programs meet certain other quality assurance benchmarks."[37] Section 561 of the Senate version, which would have limited tuition assistance funds to education and training that are likely to contribute to the member's professional development, was not adopted.[38] Sections 567 and 568 require DOD reports on specific transition initiatives to help servicemembers qualified to operate maritime vessels to obtain merchant mariner licenses and certifications, assessment of the availability of college credit for skills acquired during military service, and evaluation of the usage of the JTEST-AI program.

Section 3590 sets deadlines for the processing of applications for transportation worker identity credentials (TWIC) for separating military servicemembers.[39] Section 564 of the final version also requires DOD to provide information and application for such cards to separating servicemembers as part of TAP. Sections 562 and 563 require DOD to provide notification about recoupment of separation payments and to provide counseling on substance abuse during mandatory TAP training.

[37] U.S. Congress, House of Representatives, *National Defense Authorization Act for Fiscal Year 2017*, Conference Report to Accompany S. 2943, 114th Cong., 2nd sess., November 2016.

[38] This provision was recommended in 2015 by the Military Compensation and Retirement Modernization Commission out of concerns about duplication of education assistance programs and lack of adequate oversight on the use of TA funds. *Report of the Military Compensation and Retirement Modernization Commission*, January 29, 2015, p. 168.

[39] The TWIC is required by the Maritime Transportation Security Act for workers who need access to secure areas of maritime facilities and vessels.

Finally, Section 566 of the House bill, which would have authorized DOD to carry out a pilot program to provide job placement/employment services directly to reserve component members, was not adopted.

Reference(s): CRS In Focus IF10347, *Military Transition Assistance Program (TAP): An Overview*, by Kristy N. Kamarck, and CRS Report R42790, *Employment for Veterans: Trends and Programs*, coordinated by Benjamin Collins.

CRS Point of Contact: Kristy N. Kamarck.

Changes to General and Flag Officer Grades and Positions

Background: The most senior officers in the military are known as general officers (Army, Air Force, and Marine Corps) or flag officers (Navy).[40] At the highest level such general and flag officers (GFOs) hold the most visible and important military positions in the DOD, including the Chairman of the Joint Chiefs of Staff, the chiefs of the four military services, and the combatant commanders. The most senior GFOs hold the rank of general or admiral ("4-star," paygrade O-10), followed by lieutenant general and vice admiral ("3-star," paygrade O-9), major general and rear admiral ("2-star," paygrade O-8), and brigadier general and rear admiral—lower half ("1-star," paygrade O-7). The total number of GFOs in each grade is limited by statute (10 U.S.C. §§525, 526, and 12004), and Congress has designated that certain positions in the Armed Forces must be filled by general or flag officers of a particular grade. Congress periodically reviews and revises the number, duties, and compensation of GFOs.

[40] In the Army, Air Force, and Marine Corps, they include the grades of brigadier general, major general, lieutenant general, and general. In the Navy, they include the grades of rear admiral (lower half), rear admiral, vice admiral, and admiral. Such officers are sometimes referred to by the number of stars in their rank insignia (e.g., a one-star general, a three-star admiral, etc.).

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 501 would modify 10 U.S.C. §525 and 526 to increase the maximum number of Marine Corps officers above the rank of Major General from 15 to 17, reduce the maximum number of Marine Corps officers in the rank of Major General from 23 to 22, and increase the total number of Marine Corps general officers from 61 to 62. It would also modify 10 U.S.C. §5045 to increase the maximum number of Deputy Commandants in the Marine Corps from 6 to 7. **Sec. 910** specifies that a "commander of a service or functional component command under a commander of a combatant command shall be no higher than lieutenant general or vice admiral." It would also require DOD to "reduce the total number of officers in the grade of general or admiral on active duty by five positions." **Sec. 911** would require the establishment of a "unified command for cyber operations," and specifies that the commander of this organization shall hold the grade of general or admiral.	**Sec. 501** would add new sections—525a, 526a, and 12004a—to Title 10 which set new limits on the number of active component and reserve component GFOs serving in the military departments and joint positions. The new sections would replace the existing limitations in Sections 525, 526, and 12004 and be effective after December 31, 2017. They would effectively reduce the number of GFOs by 25%, with the reductions weighted toward the higher grades. **Sec. 502** would eliminate certain statutory requirements that specific positions be held by a GFO. This elimination of statutory grade would primarily affect positions in the medical, legal, personnel, legislative liaison, chaplain, and reserve communities, as well as certain senior staff positions.	**Section 501** requires the Secretary of Defense to reduce the number of GFOs on active duty by 110, from the currently authorized 962 down to 852, by December 31, 2022. It also sets new distributions of active duty GFO positions for the services and the joint pool and allows the Secretary of Defense to alter the reductions and distribution of GFOs in the interest of national security. It requires a plan and a number of reports on implementing the reductions as well as a study on reducing GFOs a further 10%. It adds new section 526a to Title 10 codifying the new caps on GFOs, effective after December 31, 2022. **Sec. 502** largely adopts the language of Sec. 502 of the Senate bill, while eliminating the statutory grade requirement for several additional positions. **Sec. 923** largely adopts the language of Sec. 911 of the House bill, but modifies language concerning command relationships and functions. **Section 503** adopts the language of Section 501 of the House bill.

Discussion: Section 910 of the House bill would have required that the service and functional component commanders who serve under a combatant commander[41] hold a rank no higher than lieutenant general or vice admiral. Section 910 would also require DOD to reduce the total number of active duty generals and admirals by 5 (as of April 30, 2016, there were 38 such officers). Section 911 would have required the establishment of a new unified combatant command for cyber operations, to be led by an admiral or general. The current U.S. Cyber Command, led by Admiral Michael Rogers, is a subordinate command of the U.S. Strategic Command.

The Senate bill would have reduced the number of authorized active and reserve GFOs by 25%, effective December 31, 2017. For active component GFOs, the reductions would be weighted more heavily toward higher-ranking GFOs. For example, the maximum number of active component GFOs currently authorized at the 3-star and 4-star level is 206; under the proposed Senate language, this number would drop to 111. The Senate bill would have also eliminated certain statutory grade requirements, primarily in the medical, legal, personnel, legislative liaison, chaplain, and reserve communities, as well as certain senior staff positions, that specified positions be held by a GFO. Without statutory grade requirements, DOD could set the grades at a

[41] Combatant commands—such as U.S. Central Command, U.S. Strategic Command, and U.S. Transportation Command—are military commands which have broad, continuing missions and which are typically composed of forces from two or more military departments. There are currently nine combatant commands, all headed by a "combatant commander" who holds the grade of general or admiral ("four-star" officers).

higher, lower, or identical grade, but would still need to manage general and flag officer numbers within the overall general and flag officer caps specified in law.

Section 501 of the enacted bill requires the Secretary of Defense to reduce the total number of GFOs on active duty so they are 110 less than the number currently authorized by December 31, 2022. This amounts to a reduction of about 11% in the number of authorized positions; however, since only 889 of the 962 currently authorized positions are filled at present, the reduction in GFO personnel will be smaller than the reduction in positions. The reductions in authorized positions will be distributed as follows: Army, from 231 to 220; Navy, from 162 to 151; Air Force, from 198 to 187; Marine Corps, from 61 to 62 (increased); joint pool, from 310 to 232. Section 501 also provides a temporary allocation of 30 additional GFO positions to the joint pool for contingency operations. Subparagraph (e) of Section 501 allows the Secretary of Defense to alter these reductions, or their distribution, in the interest of national security, but the House and Senate Armed Services Committees must be notified within 30 days of doing so. The provision includes a number of reporting requirements on implementation, and also requires the Secretary of Defense to conduct a "comprehensive and deliberate global manpower study of requirements for general and flag officers," which provides a justification for each GFO position, and identifies an additional 10% reduction in the number of authorized GFO positions along with the distribution of those reductions. The study results are to be submitted to the House and Senate Armed Services Committees by April 1, 2017.

Reference(s): CRS Report R44389, *General and Flag Officers in the U.S. Armed Forces: Background and Considerations for Congress*, by Lawrence Kapp and CRS Report R42077, *The Unified Command Plan and Combatant Commands: Background and Issues for Congress*, by Andrew Feickert.

CRS Point of Contact: Lawrence Kapp.

*Joint Duty Assignments

Background: Chapter 38 of Title 10 U.S.C. concerns the management of active duty officers who are "particularly trained in, and oriented toward, joint matters."[42] Officers are required to complete certain educational requirements and duty assignments to become such *joint qualified officers*. In recent years, there has been some debate over whether current qualification requirements lead to the development of officers with an appropriate mix of service and joint experiences.

Currently, the definition of joint matters is

> ... matters related to the achievement of unified action by integrated military forces in operations conducted across domains such as land, sea, or air, in space, or in the information environment, including matters relating to—
>
> (A) national military strategy;
>
> (B) strategic planning and contingency planning;
>
> (C) command and control of operations under unified command;
>
> (D) national security planning with other departments and agencies of the United States;
>
> (E) combined operations with military forces of allied nations; or

[42] 10 U.S.C. §661(a).

> (F) acquisition matters addressed by military personnel and covered under chapter 87 of this title.[43]

To become a joint qualified officer, an individual must complete specific joint professional military education requirements, and complete a "full tour of duty in a joint assignment" or other assignments that demonstrate mastery of joint matters.[44] Joint duty assignments are normally at least two years for general and flag officers (GFOs) and three years for other officers, although the Secretary of Defense may waive this requirement.[45]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 912 would reduce the joint duty assignment tour length to a minimum of two years for officers of all ranks, and remove the statutory requirement for services to maintain a tour length average. **Sec. 913** would amend the definition of "joint matters" in 10 U.S.C. 668, and would allow a wider array of positions to qualify as joint duty.	**Sec. 507** would amend 10 U.S.C. 664 to -Reduce the length of a joint duty assignment from three years to two years for all officers. -Eliminate tour length waivers for officers with "critical occupational specialties." -Provide more flexibility to Secretary of Defense to exclude certain service from the tour length requirements. -Eliminate the requirement that the Secretary of Defense ensure average tour lengths comply with specified minimum tour lengths for individuals. **Sec. 508** contains similar language to Sec. 913 of the House-passed bill.	**Sec. 510** adopts the Senate provision (Sec. 507). **Sec. 510A** adopts the House provision (Sec. 913).

Discussion: Both the House and Senate bills would have modified the statutory criteria for joint duty assignments, including standardizing the length of a joint duty assignment at two years for all officers. Thus, a two-year joint duty assignment—rather than a three-year assignment—would qualify as a "full tour of duty" for officers who are not GFOs. Both bills would have expanded the definition of joint matters "to better capture the breadth of duties and positions that comprise joint matters experience."[46] For example, matters relating to "intelligence, fires, movement and maneuver, protection or sustainment of operations under unified command" would have been considered as joint matters. Additionally, the Secretary of Defense would have been allowed to designate other joint matters in regulation. Finally, the definition of joint duty assignment would have been modified. Both bills would have added an additional requirement that the preponderance of the duties of the officer involve joint matters to the existing statutory requirement that joint duty assignments be limited to "assignments in which the officer gains significant experience in joint matters."

The enacted bill adopted the Senate language amending 10 U.S.C. §664 with regard to joint duty assignments, and the House language amending the definition of "joint matters" under 10 U.S.C. §668.

[43] 10 U.S.C. §668(a)(1).

[44] 10 U.S.C. §661(c).

[45] 10 U.S.C. §664.

[46] H.Rept. 114-537, p. 233.

Reference(s): CRS Report R44496, *Military Officer Personnel Management: Key Concepts and Statutory Provisions*, by Lawrence Kapp and CRS Report R44474, *Goldwater-Nichols at 30: Defense Reform and Issues for Congress*, by Kathleen J. McInnis.

CRS Point of Contact: Lawrence Kapp.

Selective Service

Background: The Military Selective Service Act (MSSA) provides the statutory authority for the federal government to maintain a Selective Service System (SSS) as an independent federal agency responsible for delivering appropriately qualified civilian men for induction into the Armed Forces of the United States as authorized by Congress. The MSSA requires most males between the ages of 18 and 26 who are citizens or residents of the United States to register with Selective Service. Women in the United States have never been required to register for the draft. Men who fail to register may be subject to criminal penalties, loss of eligibility for certain federal or state employment opportunities and education benefits, and denial of security clearances. Documented or undocumented immigrants who fail to register may not be able to obtain United States citizenship.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 528 would require a DOD report on the purpose and utility of the registration system under the MSSA.	**Sec. 591** would expand selective service registration requirements to women. **Sec. 1066-1073** would establish a National Commission on Military, National, and Public Service.	**Sec. 551 and 553-557** establishes a National Commission on Military, National, and Public Service. **Sec. 552** requires a DOD report on the purpose and utility of the registration system under the MSSA.

Discussion: Recent DOD policy changes that have opened all military occupational specialties (MOSs) including ground combat positions to women have called into question the Selective Service registration exemption for women. While some feel that women should now be required to register, others have questioned the need to maintain the registration requirement and other provisions of the MSSA. Section 591 of the Senate bill would have expanded selective service registration requirements to women who attain the age of 18 on or after January 1, 2018. The House bill did not contain a similar provision.[47] This provision was not adopted in the final bill.

Some have questioned whether the Selective Service System is still needed and if there are other mechanisms that could be used to meet emergency manpower needs. Section 552 of the final bill requires DOD to produce a detailed review and report on the Selective Service System, including its benefits and viability, as well as an analysis of potential DOD manpower needs in the event of an emergency requiring mass mobilization. Sections 551 and 553-557 adopt the Senate provisions that establish an independent commission to be known as the National Commission on Military, National, and Public Service to examine these and other questions. This 11-member commission would include appointees by the Administration and senior members of the House, Senate, and armed services committees. The provision would establish the commission over a period of 36 months and authorize $15 million in funding in FY2017.

[47] A proposal to require women to register with the Selective Service was passed in the House Armed Services Committee; however the provision was stripped from the bill by the House Rules Committee in a procedural move prior to floor consideration.

Reference(s): CRS Report R44452, *The Selective Service System and Draft Registration: Issues for Congress*, by Kristy N. Kamarck, CRS Insight IN10414, *Women and the Selective Service*, by Kristy N. Kamarck, CRS Report R42075, *Women in Combat: Issues for Congress*, by Kristy N. Kamarck.

CRS Point of Contact: Kristy N. Kamarck.

*Military Sexual Assault and Sexual Harassment

Background: Over the past decade, the issues of sexual assault and sexual harassment in the military have generated a good deal of congressional and media attention. In 2005, DOD issued its first department-wide sexual assault policies and procedures (DOD Directive 6495.01 and DOD Instruction 6495.02).[48] These policy documents built on recommendations from the Joint Task Force for Sexual Assault Prevention and Response and congressional requirements specified in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (P.L. 108-375). In the same year, the task force transitioned into a permanent office, the Sexual Assault Prevention and Response Office (SAPRO), which serves as DOD's primary oversight body for all of the service-level programs. In May 2013, DOD released its first Sexual Assault Prevention and Response (SAPR) strategic plan with an update in January 2015.[49] Between 2012 and 2016, DOD has taken a number of steps to implement its own strategic initiatives as well as dozens of congressionally mandated actions related to military justice and investigations, sexual assault prevention, victim services, and reporting and accountability.[50]

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Military Justice and Investigations **Sec. 545** would modify burden of proof requirements for military retaliation investigations. **Sec. 546** would require training for those investigating allegations of retaliation, particularly with respect to the reporting of sex-related offences. *Reporting and Accountability* **Sec. 542** would extend reporting requirements for military sexual assault and would modify reporting deadlines.	*Military Justice and Investigations* **Sec. 541** would require the Secretary concerned to report to a complainant the results of an investigation of a retaliation complaint. **Sec. 542** would require training for DOD personnel who investigate claims of retaliation in connection with reports of sexual assault. *Victim Services* **Sec. 536A** would require additional consideration by discharge review boards of claims asserting Post-Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) in connection with sexual trauma. **Sec. 554** would require a medical evaluation prior to administrative separation for members with PTSD	*Military Justice and Investigations* **Sec. 546** requires training for DOD personnel who investigate claims of retaliation in connection with reports of sexual assault. **Sec. 547** requires the Secretary concerned to provide in a written report to a complainant the results of an investigation of a retaliation complaint. *Victim Services* **Sec. 535** requires additional consideration by discharge review boards of claims asserting Post-Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) in connection with sexual trauma. **Sec. 554** requires a medical evaluation prior to administrative separation for members with PTSD

[48] A full list of all current DOD and Service-level policies related to military sexual assault can be found at http://www.sapr.mil/index.php/DOD-policy/DOD-and-service-policy.

[49] Department of Defense, *Sexual Assault Prevention and Response Strategic Plan*, January 26, 2015, at http://www.sapr.mil/public/docs/reports/SecDef_SAPR_Memo_Strategy_Atch_20150126.pdf.

[50] For more information on congressional activity prior to 2013 see CRS Report R43168, *Military Sexual Assault: Chronology of Activity in Congress and Related Resources*, by Barbara Salazar Torreon.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
	or TBI in connection with sexual assault.	or TBI in connection with sexual assault.
	Reporting and Accountability	*Reporting and Accountability*
	Sec. 543 would require DOD to include retaliation in annual military sexual assault reports.	**Sec. 543** requires DOD to include retaliation in annual military sexual assault reports.
	Sec. 551 would extend reporting requirements for military sexual assault and would modify reporting deadlines.	**Sec. 544** extends reporting requirements for military sexual assault to 2021 and would modify reporting deadlines.
	Sec. 544 would require DOD to establish metrics for evaluating prevention and response to retaliation in connection with reports of sexual assault.	**Sec. 545** requires DOD to establish metrics for evaluating prevention and response to retaliation in connection with reports of sexual assault.
	Prevention	*Prevention*
	Sec. 550 would modify the definition of sexual harassment in 10 U.S.C. §1561(i) for purposes of investigating complaints of harassment by commanding officers.	**Sec. 548** modifies the definition of sexual harassment in 10 U.S.C. §1561(e) for purposes of investigating complaints of harassment by commanding officers.

Discussion: DOD's Sexual Assault Prevention and Response Office (SAPRO) is required by law (P.L. 111-383) to report statistics and analysis of sexual assault in the military on an annual basis. The Senate bill (§551) would have extended reporting requirements from March 1, 2017, to 2025 and would move the deadline for delivery of annual reports to Congress from April 30 to March 31. Section 544 of the conference bill adopted the House provision (§542) that would extend annual reporting requirements to January 31, 2021, and established April 30 as the deadline for reports to be submitted to Congress. The estimated cost for preparing the FY2015 report was $6.9 million.[51]

The FY2015 DOD Annual Report on Sexual Assault in the Military included findings from focus groups on sexual assault prevention and response and from the 2015 Military Investigation and Justice Experience Survey.[52] Feedback from these studies indicates that servicemembers have concerns about retaliation associated with reporting instances of sexual assault. There has been some concern that the various types and definitions of retaliation are not well understood, leading to confusion in investigations and reporting of retaliation. Both the House (§546) and Senate (§542) bills included similar provisions that would increase training requirements for investigators; Section 546 of the enacted bill adopts the Senate provision with a clarifying amendment. Section 545 of the House bill would have modified burden of proof requirements to align them more closely with other retaliation investigation law. This provision was not adopted; however, as noted in the conference report,

> The conferees remain concerned about reports from military personnel who indicate they have been subjected to retaliation after making protected communications. The conferees

[51] This includes $5,440,000 in expenses and $1,497,000 in DOD labor. Department of Defense Sexual Assault and Prevention Office, *Department of Defense Annual Report on Sexual Assault in the Military*, May 2, 2016.

[52] Ibid., Annexes 2 and 3.

> intend to remain seized of this issue and will assess the impact of the provisions in this bill to reducing the prevalence of retaliation in the military.[53]

Sections 543 and 545 of the enacted bill adopt Senate provisions that require DOD to develop and annually report on metrics that evaluate efforts to prevent and respond to retaliation in connection with reports of military sexual assault.

Congress has raised concerns about the character of discharge for certain veterans who experienced sexual trauma while serving in the military. Other-than-honorable discharges can prevent servicemembers from being eligible for certain veteran's benefits. Servicemembers may appeal these decisions through a discharge review board. Currently by law (10 U.S.C. §§1177 and 1553) those servicemembers with PTSD or TBI in connection with combat have certain additional medical assessments prior to administrative separation and enhanced discharge review board consideration. The enacted bill (§§535 and 554) adopts Senate provisions that amend the law to apply to servicemembers and veterans who experienced PTSD or TBI in connection with sexual trauma.

Currently DOD handles sexual harassment under the Military Equal Opportunity Program and SAPRO oversees sexual assault policies. Within the conference report, the Senate Armed Services Committee expressed concerns that "the existing definition of sexual harassment has caused the military services to consider sexual harassment as a violation of equal opportunity policy instead of an adverse behavior that data have demonstrated is on the spectrum of behavior that can contribute to an increase in the incidence of sexual assault."[54] Section 548 of the enacted bill modifies the definition of sexual harassment in 10 U.S.C. 1561(e) for purposes of investigating complaints of harassment by commanding officers.

Reference(s): See also CRS Report R43168, *Military Sexual Assault: Chronology of Activity in Congress and Related Resources*, by Barbara Salazar Torreon; CRS Report R43213, *Sexual Assaults Under the Uniform Code of Military Justice (UCMJ): Selected Legislative Proposals*, by R. Chuck Mason. Previously discussed in CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen and similar reports from earlier years.

CRS Point of Contact: Kristy N. Kamarck, R. Chuck Mason.

Child Abuse and Domestic Violence

Background: There are approximately 1.1 million dependent children of active duty military servicemembers.[55] According to DOD statistics, in FY2014, there were 7,676 confirmed cases of child abuse or neglect in military homes, which was an increase of 10% from the previous year and a 10-year high.[56] While rates of child abuse among military families remain below those of the general population, these statistics have raised concerns about prevention, management, and reporting of abuse in the Armed Forces.

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[53] Conference Report 114-840 to accompany S. 2943.

[54] Ibid.

[55] Department of Defense, *2014 Demographics: Profile of the Military Community*, 2014, p. 141, at http://download.militaryonesource.mil/12038/MOS/Reports/2014-Demographics-Report.pdf.

[56] Ryan, Missy, "The Number of Child Abuse Cases in the Military Hits a Decade High," *The Washington Post*, September 2, 2015.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 541 would require reporting of child abuse and neglect to state child welfare services.	**Sec. 577** would require reporting of child abuse and neglect to state child welfare services.	**Sec. 575** requires reporting of child abuse and neglect to state child welfare services.
Sec. 543 would require an annual family advocacy program report regarding child abuse and domestic violence.	**Sec. 578** would require DOD domestic schools and certain local educational agencies that receive Impact Aid to establish procedures for requiring criminal background checks.	**Sec, 574** requires an annual family advocacy program report regarding child abuse and domestic violence.

Discussion: DOD's child and domestic abuse prevention, education, and training initiatives are implemented through the Family Advocacy Program (FAP).[57] The FAP also responds to suspected instances of domestic abuse, provides victim advocacy services, and collects and reports data as required by law and regulation.[58] Current law and regulations require some data sharing between DOD and the states on known or suspected instances of child abuse and neglect in which the child's caretaker is a member of the Armed Forces or the member's spouse.[59] Section 575 of the final bill requires DOD personnel who suspect instances of child abuse and neglect to directly notify the appropriate state child welfare agency in addition to designated DOD representatives.

Section 574 of the enacted bill requires an annual Family Advocacy Program report to Congress that includes data on instances of child abuse and domestic abuse. The first report will be due on April 30, 2017, and this requirement would sunset after April 30, 2021. Proponents of this provision believe that it will improve reporting and oversight of abuse in military families.

Finally, Section 578 of the Senate bill would have required all DOD domestic schools and certain local educational agencies that receive Impact Aid to establish procedures for requiring employee criminal background checks, including searches of state-based child abuse and neglect registries and National Sex Offender databases. The House bill did not contain a similar provision and this provision was not in the final bill. Instead, the conference report included language that strongly urged DOD to

> work as closely as possible with local school districts that educate military family members to share best practices to help those districts develop and improve comprehensive employment screening policies to ensure the safety of military children. The conferees direct the Department to provide a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than 1 year after the date of enactment of this Act, on the Department's efforts to: 1) identify, to the extent practicable, any shortfalls in employee screening processes in local school districts educating military family members; and 2) provide recommendations to help address those shortfalls in the future.[60]

Reference(s): CRS Report R40899, *The Child Abuse Prevention and Treatment Act (CAPTA): Background, Programs, and Funding*, by Emilie Stoltzfus; CRS In Focus IF10335, *DOD Domestic School System: Background and Issues*, by Kristy N. Kamarck; CRS Report R44221, *Impact Aid, Title VIII of the Elementary and Secondary Education Act: A Primer*, by Rebecca R. Skinner. **CRS Point of Contact: Kristy N. Kamarck.**

[57] 32 C.F.R. part 61.

[58] 10 U.S.C. §1787, 42 U.S.C. §13031, and 28 CFR part 81.

[59] 10 U.S.C. §1787. State laws may also apply at military installations within the state.

[60] Conference Report 114-840 to accompany S. 2943.

Uniform Code of Military Justice Reform

Background: In 2013, upon the recommendation of Chairman of the Joint Chiefs of Staff General Martin Dempsey, Secretary of Defense Chuck Hagel directed the General Counsel of the Department of Defense (General Counsel) to complete a comprehensive review of the Uniform Code of Military Justice (UCMJ, codified at Chapter 47 of Title 10 of the United States Code) and its implementation through the Manual for Courts-Martial (MCM) and service regulations.[61] Additionally, Secretary Hagel directed the General Counsel to consider the report and recommendations of the Response Systems to Adult Sexual Assault Crimes Panel, a separate and independent review of the systems used to investigate and resolve adult sexual assault and related offenses in the military.[62] The General Counsel established the Military Justice Review Group (MJRG) with a focus on reviewing the structure and operation of the UCMJ and MCM.[63] Specifically, the MJRG was tasked with completion of two reports: (1) a legislative proposal to modify the UCMJ, and (2) proposed implementing rules in the MCM.[64] As a result of the work of the MJRG, on December 28, 2015, the Department of Defense submitted the Military Justice Act of 2016[65] to Congress[66] and bills were subsequently introduced in the House and Senate to revise the UCMJ.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Division E—Titles LX-LXXII would make many revisions to Chapter 47 of Title 10 of the United States Code including some substantial edits and additions to the punitive articles.	**Division E—Titles LI-LXII** would make several amendments to Chapter 47 of Title 10 of the United States Code.	**Division E—Titles LI-LXIII** makes several amendments to Chapter 47 of Title 10 of the United States Code including extensive changes to the punitive articles.

Discussion: The proposed House bill comprised a comprehensive revision to the UCMJ, including statutory additions and substantive amendments.[67] The House bill addressed various aspects of military justice including, but not limited to, courts-martial composition, trial procedure, sentencing, and appellate matters. For example, with respect to sentencing, the House bill would have granted the government the ability to appeal a sentence adjudged if the sentence violated the law or was plainly unreasonable; previously the right to appeal was only available to the servicemember.[68] Among the most substantive revisions proposed in the House bill were changes to the punitive articles (i.e., the offenses for which a servicemember may be court-martialed). The House bill would have provided for many offenses addressed by Executive Order

[61] Memorandum from Secretary of Defense, *Subject: Comprehensive Review of the Uniform Code of Military Justice*, Department of Defense, October 18, 2013, http://www.dod.gov/dodgc/images/mjrg_secdef_memo.pdf.

[62] Department of Defense, Military Justice Review Group, *Report of the Military Justice Review Group, Part I: UCMJ Recommendations*, December 22, 2015, p. 5, http://www.dod.gov/dodgc/images/report_part1.pdf.

[63] Military Justice Review Group website, available at http://www.dod.gov/dodgc/mjrg.html.

[64] *Id*.

[65] Department of Defense, *Military Justice Act of 2016*, http://www.dod.gov/dodgc/images/military_justice2016.pdf.

[66] Department of Defense, "Department of Defense Forwards to Congress Proposed Changes to the Uniform Code of Military Justice," press release, December 28, 2015, http://www.dod.gov/dodgc/images/press_release_dec.pdf.

[67] *Id*.

[68] H.R. 4909, Title LXVII, §6701.

through the General Article[69] to be identified by specific statutory sections as part of a general reorganization of the punitive articles.[70] Additionally, the House bill would have created new offenses, including (1) Article 93a—prohibited activities with military recruit and trainee by person in position of special trust;[71] (2) Article 121a—fraudulent use of credit cards, debit cards, and other access devices;[72] (3) Article 123—offenses concerning government computers;[73] and (4) Article 132—retaliation.

The proposed Senate bill also addressed various aspects of military justice including, but not limited to, courts-martial composition, trial procedure, sentencing, and appellate matters. Although both the House and Senate proposals were referred to as the "Military Justice Act of 2016," differences existed between the House and Senate language. For example, as discussed above, the House language would have allowed the government to appeal a sentence adjudged if the sentence violated the law or was plainly unreasonable.[74] The Senate language, however, would have required the creation of military-specific sentencing parameters and criteria and provided that an adjudged sentence that diverted from the criteria and parameters would be appealable by the government.[75] While the Senate language also proposed to reorganize the punitive articles, it significantly differed from the House language in its proposed changes to offenses related to rape and sexual assault.[76] Specifically, the Senate bill would have added the use of "position, rank, or authority to coerce the acquiescence of the other person in the sexual act" as a prohibited act punishable by court-martial to Article 120.[77]

Differences between the House and Senate bills were resolved in conference. Consistent with the House and Senate bills, the final bill includes a comprehensive revision of the UCMJ. However, some language was not included in the final bill, for example, (1) a provision that would have required interim guidance on sentencing parameters and criteria and would have been subject to sunset at a later time; (2) an increase in the minimum punishment for sex-related offenses; and (3) changes to Art. 120, which would have expanded the definition of committing a sexual act upon another person to include the wrongful use of position, rank, or authority to coerce the acquiescence of the other person in the sexual act.[78]

Reference(s): CRS Report R41739, *Military Justice: Courts-Martial, an Overview*, by R. Chuck Mason.

CRS Point of Contact: R. Chuck Mason.

*Medal of Honor

Background: The Medal of Honor (MOH) is the military's highest award for valor "above and beyond the call of duty." In recent years, the MOH review process has been criticized by some as

[69] 10 U.S.C. §1408.

[70] H.R. 4909, Title LXIX.

[71] *Id*. at §6910.

[72] *Id*. at §6913.

[73] *Id*. at §6949.

[74] *Id*. §6701.

[75] S. 2943, Title LVIII, §5261.

[76] *Id*. at §5330.

[77] *Id.*

[78] S. 2943, Titles LI-LXIII.

being lengthy and bureaucratic, which may have led to some records being lost and conclusions drawn based on competing eyewitness and forensic evidence.[79] The reluctance to retroactively award the MOH or to upgrade other awards is generally based on efforts to maintain the integrity of the award and the awards process. This reluctance has led many to believe that the system of awarding the MOH is overly restrictive and that certain individuals are denied earned medals. As a result, DOD periodically reviews inquiries by Members of Congress and reevaluates its historical records.[80] On January 6, 2016, DOD announced the results of its year-long review of military awards and decorations.[81] This included review of the timeliness of the MOH process and review by all the military departments of the Distinguished Service Cross, Navy Cross, Air Force Cross, and Silver Star Medal recommendations since September 11, 2001, for actions in Iraq and Afghanistan. The results of the Service Cross and Silver Star Review are due to the Secretary of Defense on September 30, 2017.

House-Passed H.R. 4909	Senate-Passed S. 2943	P.L. 114-328
Sec. 581 would require review regarding award of Medal of Honor to certain Asian American and Native American Pacific Islander war veterans. **Sec. 582** would authorize award of medals for acts of valor. **Sec. 583** would authorize award of the Medal of Honor to Gary M. Rose for acts of valor during the Vietnam War. **Sec. 584** would authorize award of the Medal of Honor to Charles S. Kettles for acts of valor during the Vietnam War.	**Sec. 586** would authorize award of the Medal of Honor to Charles S. Kettles for acts of valor during the Vietnam War. **Sec. 587** would authorize award of the Medal of Honor to Gary M. Rose for acts of valor during the Vietnam War.	**Sec. 582** authorizes award of medals for acts of valor during certain contingency operations. **Sec. 583** authorizes award of the Medal of Honor to Gary M. Rose and James C. McCloughan for acts of valor during the Vietnam War. **Sec. 586** requires review regarding award of Medal of Honor to certain Asian American and Native American Pacific Islander war veterans.

Discussion: Sections 582, 583, and 596 of the conference report include provisions similar to the House-passed H.R. 4909 and Senate-passed S.2943.

Section 582 of the final bill waives the time limitations prescribed in various sections of Title 10, United States Code, to authorize the President to award certain valor awards, including the Congressional Medal of Honor, to a member or former member of the Armed Forces during certain contingency operations: Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), Operation New Dawn (OND), Operation Freedom's Sentinel (OFS), and Operation Inherent Resolve (OIR), resulting from a review of valor award nominations directed by the Secretary of Defense on January 7, 2016. The time waiver expires on December 31, 2019, and no medal may be awarded after that date under the authority of this section.

[79] See "Medal of Honor (MoH) Process," CRS Report R43647, *FY2015 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Barbara Salazar Torreon.

[80] See "Congressional and Other Efforts to Award the Medal of Honor," CRS Report 95-519, *Medal of Honor: History and Issues*, by Barbara Salazar Torreon.

[81] Defense Department Announces Results of Military Decorations and Awards Review, Press Release No: NR-004-16, January 7, 2016, at http://www.defense.gov/News/News-Releases/News-Release-View/Article/641775/defense-department-announces-results-of-military-decorations-and-awards-review. The complete list of changes to the military decorations and awards program can be found at: http://www.defense.gov/Portals/1/Documents/Military-Decorations-and-Awards-Review-Results.pdf.

Section 583 of the final bill waives the time limitations specified in Section 3744 of title 10, United States Code, to authorize the award of the Medal of Honor to Gary M. Rose and to James C. McCloughan for acts of valor during the Vietnam War. This section authorizes the President to award the Medal of Honor to Gary M. Rose for acts of valor from September 11 through 14, 1970, while a member of the United States Army, Military Assistance Command Vietnam-Studies and Observation Group (MACVSOG); and to James C. McCloughan for acts of valor during combat operations between May 13, 1969, and May 15, 1969, while serving as a combat medic with Company C, 3d Battalion, 21st Infantry, 196th Light Infantry Brigade, American Division, Republic of Vietnam.

Section 586 of the enacted bill requires the Secretary of each military department to conduct a review of the service records of certain eligible veterans of the Korean and Vietnam Wars who are of Asian American or Native American Pacific Island descent and were previously awarded the Distinguished Service Cross, the Navy Cross, or the Air Force Cross. In those cases where the Secretary concerned determines that the service records of those veterans support the award of the Medal of Honor, this section would also waive the statutory time limitations for award of the Medal.

Reference(s): CRS Report 95-519, *Medal of Honor: History and Issues*, by Barbara Salazar Torreon, and CRS Report R43647, *FY2015 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Barbara Salazar Torreon; and the Congressional Budget Office, *Cost Estimate* H.R. 4909 *National Defense Authorization Act for Fiscal Year 2017*, May 11, 2016.

CRS Point of Contact: Barbara Salazar Torreon.

Appendix A. Reports and Studies

Congress often requests or requires pilot studies and reports within provisions of the National Defense Authorization Act and in associated committee reports. This Appendix includes reports related to military personnel issues that are required by the final bill.

Table A-1. Required Reports Relating to Issues of Military Personnel

Section and Subject	Reporting Agency/Organization (due date)
Sec. 332 Average travel costs of members of the reserve components	Comptroller General (180 days after enactment)
Sec. 352 DOD's space-available travel system	DOD contract with FFRDC (180 days after entering contract)
Sec. 501 Reduction in general officer and flag officer grades and positions	DOD (study results April 1, 2017, plan with FY2019 DOD budget request; progress reports with DOD budget requests for FY2020, 2021, and 2022)
Sec. 509 Pilot programs on direct commissioning to cyber positions	DOD, Defense Secretaries (January 1, 2020)
Sec. 527 Pilot program on consolidated Army recruiting	DOD, Secretary of the Army (briefing no later than March 1, 2017, interim report within one year of implementation, and a final report within 180 days of pilot completion)
Sec. 534 Improvements to authorities and procedures for the correction of military records	DOD and DHS, Secretaries concerned (18 months after enactment)
Sec. 536 Review of integrity of DOD whistleblower program	Comptroller General (18 months after enactment)
Sec. 542 Professional development programs for judge advocates	DOD, Secretaries concerned (within 4 years of enactment)
Sec. 543 Improvements to authorities and procedures for the correction of military records	DOD and DHS, Secretaries concerned (18 months after enactment)
Sec. 549 Improved DOD prevention of and response to hazing in the Armed Forces	DOD (annually, January 31 of each year following enactment through January 31, 2021)
Sec. 552 Purpose and utility of registration system under Military Selective Service Act	DOD (July 1, 2017); Comptroller General (December 1, 2017)
Sec. 567 JTEST-AI, and Internships and SkillBridge initiatives for members of the Armed Forces who are being separated	DOD (180 days after enactment)
Sec. 568 Military-to-mariner transition	DOD (180 days after enactment)
Sec. 574 Child abuse and domestic violence	DOD (annually, April 30, 2017 through April 30 2021)
Sec. 578 Exceptional Family Member Programs	Comptroller General (Dec. 31, 2017)

Section and Subject	Reporting Agency/Organization (due date)
Sec. 593 Integrating women into military occupational specialties and units recently opened to women	Chief of Staff of the Army, the Commandant of the Marine Corps, and the Commander of the United States Special Operations Command (April 1, 2017 and annually thereafter through 2020)
Sec. 594 Electronic Tracking of Operational active-duty service performed by members of the Ready Reserve	DOD (March 1, 2017)
Sec. 595 Discharge by warrant officers of pilot and other flight officer positions in the Navy, Marine, Corps, and Air Force currently discharged by commissioned officers	DOD, Secretaries of the Navy and Air Force (180 days after enactment)
Sec. 597 Career progression tracks in the Armed Forces for women in combat arms units	DOD (30 days after enactment).
Sec. 604 New single-salary pay system	DOD (plan to implement new pay structure: March 1, 2017, elements of new pay structure: January 1, 2018)
Sec. 661 Independent assessment of the Survivor Benefit Plan	DOD contract with FFRDC (one year after enactment)
Sec. 671 Recovery of amounts owed to the United States by members of the uniformed services	DOD (August 1, 2017); Comptroller General (one year after enactment)
Sec. 702 Reform of administration of the Defense Health Agency and military medical treatment facilities	DOD (interim draft plan by March 17, 2017 and final report by March 1, 2018); Comptroller General (review of preliminary report by September 1, 2017, and a review of the final plan by September 1, 2018)
Sec. 703 Military medical treatment facilities	DOD (2 years after enactment) ; Comptroller General (60 days after DOD report)
Sec. 707 Joint Trauma System	DOD (180 days after enactment)
Sec. 708 Joint Trauma Education and Training Directorate	DOD (July 1, 2017)
Sec. 709 Standardized system for scheduling medical appointments at MTFs	DOD (January 1, 2017)
Sec. 712 Improving continuity of health care coverage for Reserve Components	DOD (initial report within one year of pilot program initiation, annual reports thereafter, and final report 180 days prior to pilot program completion)
Sec. 716 Applied behavior analysis	DOD (December 31, 2018)
Sec. 718 Enhancement of use of telehealth services in military health system	DOD (initial report within 180 days of enactment, final report within 3 years of implementation)
Sec. 727 Acquisition Strategy for health care professional staffing services	DOD (July 1, 2017)
Sec. 729 Improvement of health outcomes and control of costs of health care under TRICARE	DOD (January 1, 2020)

Section and Subject	Reporting Agency/Organization (due date)
Sec. 730 Accountability for the performance of the military health care system of certain leaders in the system	DOD (180 days after enactment)
Sec. 742 Pilot program on use of physician assistants	DOD (90 days after pilot program completion)
Sec. 743 Pilot program for prescription drug acquisition cost parity in the TRICARE pharmacy benefits program	DOD (90 days after pilot program completion)
Sec. 744 Pilot program for display of wait times at MTFs	DOD (90 days after pilot program completion)
Sec. 748 Assessment of transition to TRICARE program by families of members of reserve components called to active duty and elimination of certain charges for such families	DOD (180 days after enactment)
Sec 749 Oversight of graduate medical education programs of military departments	DOD (30 days after implementation); Comptroller General (180 days after DOD report)
Sec. 750 Health of helicopter and tiltrotor pilots	DOD (within 30 days of study completion)
Sec. 751 Health care delivery and waste in military health system	Comptroller General (first report within one year of enactment and annually for four years thereafter)
Sec. 2814 Public schools on military installations	DOD (one year after enactment); Comptroller General (180 days after DOD report)
Sec. 3509 Priority processing of applications for Transportation Worker Identification Credentials	DOD and DHS, Secretaries concerned (first report within one year of enactment; joint report within two years of enactment)
Conference Report (p. 1039) Potential use of authority to temporarily suspend officer grade strength tables	DOD (March 1, 2017)
Conference Report (p. 1046) Background checks for employees of agencies and schools providing elementary and secondary education for Department of Defense dependents	DOD (one year after enactment)
Conference Report (p. 1062) Stability of military families undergoing PCS	DOD (within six months of enactment)

Author Information

Kristy N. Kamarck
Analyst in Military Manpower

Lawrence Kapp
Specialist in Military Manpower Policy

Don J. Jansen
Specialist in Defense Health Care Policy

Barbara Salazar Torreon
Senior Research Librarian

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