Congressional Research Service
Informing the legislative debate since 1914

FY2018 National Defense Authorization Act: Selected Military Personnel Issues

Updated December 14, 2017

Congressional Research Service
https://crsreports.congress.gov
R44923

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Military personnel issues typically generate significant interest from many Members of Congress and their staffs. This report provides a brief synopsis of selected sections in the National Defense Authorization Act for FY2018 (H.R. 2810), as passed by the House on July 14, 2017, and the Senate on September 18, 2017. The FY2018 NDAA conference report was passed by the House on November 14, 2017, and the Senate on November 16, 2017. On December 12, President Donald J. Trump signed the bill into law (P.L. 115-91). Issues include military end-strengths, pay and benefits, and other personnel policy issues.

This report focuses exclusively on the 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.

Contents

Introduction 1
*Active Duty End-Strength 1
*Selected Reserves End-Strength 3
*Military Pay Raise 4
*Housing Allowances 5
*Defense Commissary System 6
*Survivor Benefits 8
*Servicemember Education, Credentialing, and Transition 9
*Military Sexual Assault and Sexual Harassment 12
Military Childcare Programs 16
Military Service Academies 17

Figures

Figure 1. Comparison of FY2017 Enacted Active Duty End-Strength with FY2018 President's Budget and Enacted FY2018 NDAA 2
Figure 2. Comparison of FY2017 Enacted Selected Reserve End-Strength with FY2018 President's Budget and Enacted FY2018 NDAA 4

Contacts

Author Information 19

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 2018 (H.R. 2810) on July 14, 2017. The Senate Armed Services Committee reported its version of the NDAA (S. 1519) on September 18, 2017. 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, or are identical in both versions. Following passage of each chamber's bill, a conference committee typically convenes to resolve the differences between the respective chambers' versions of the bill. The FY2018 NDAA conference report was passed by the House on November 14, 2017, and the Senate on November 16, 2017. On December 12, President Donald J. Trump signed the bill into law (P.L. 115-91).

This report highlights selected personnel-related issues that may generate high levels of congressional and constituent interest.[1] CRS will update this report to reflect enacted legislation. 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 were previously addressed in the National Defense Authorization Act for Fiscal Year 2017 (P.L. 114-328) and discussed in CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., 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-Strength

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).[2] Over the next decade, in response to the demands of wars in Iraq and Afghanistan, Congress substantially increased the authorized personnel strength of the Army and Marine Corps. Congress began reversing those 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. In FY2017, Congress halted further reductions in Army and Marine Corps end-strength and provided a slight end-strength increase. End-strength for the Air Force generally declined from 2004-2015, but increased in 2016 and 2017. End-strength for the Navy declined from 2002-2012, increased in 2013, and has remained essentially stable since then. Authorized end-strengths for FY2017 and proposed end-strengths for FY2018 are in **Figure 1**.

[1] CRS military personnel reports in previous years have included military health care (TRICARE) issues. This FY2018 report does not include analysis of health care-related provisions.

[2] 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. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 401 would authorize a total FY2018 active duty end-strength of 1,334,000 including 486,000 for the Army 327,900 for the Navy 185,000 for the Marine Corps 325,100 for the Air Force	**Sec. 401** would authorize a total FY2018 active duty end-strength of 1,320,000 including 481,000 for the Army 327,900 for the Navy 186,000 for the Marine Corps 325,100 for the Air Force	**Sec. 401** authorizes a total FY2018 active duty end-strength of 1,320,000 including 483,500 for the Army 327,900 for the Navy 186,000 for the Marine Corps 325,100 for the Air Force
Sec. 402 would amend 10 U.S.C. §691 to set minimum end-strengths as follows: 486,000 for the Army 327,900 for the Navy 185,000 for the Marine Corps 325,100 for the Air Force		**Sec. 402** amends 10 U.S.C. §691 to set minimum end-strengths as follows: 483,500 for the Army 327,900 for the Navy 185,000 for the Marine Corps 325,100 for the Air Force

Discussion: In comparison to FY2017 authorized end-strengths, the Administration's FY2018 budget proposed no change for the Army and Marine Corps, slightly higher end-strength for the Navy (+1,400) and a more substantial increase for the Air Force (+4,000).

The final bill approved end-strengths higher than the Administration request by 7,500 for the Army and 1,000 for the Marine Corps. Approved end-strengths for the Navy and Air Force were identical to the Administration's request.

Section 402 of the House bill would adjust the minimum end-strengths required by 10 U.S.C. Section 619 to a level equal to the authorized end-strengths set in Section 401.

Figure 1. Comparison of FY2017 Enacted Active Duty End-Strength with FY2018 President's Budget and Enacted FY2018 NDAA

	FY2017 Enacted	FY2018 President's Budget	FY2018 Final Bill	Change from FY2017
Army	476,000	476,000	483,500	↑ 7,500
Navy	323,900	327,900	327,900	↑ 4,000
Marine Corps	185,000	185,100	186,000	↑ 1,000
Air Force	321,000	325,100	325,100	↑ 4,100
Total Active Duty End-Strength	**1,305,900**	**1,314,100**	**1,322,500**	↑ **16,600**

Note: Up arrows indicate increases from the FY2017 authorization.

References: Previously discussed in CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., 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 16 years (874,664 in FY2001 versus 820,200 in FY2017).[3] Much of this can be 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. Authorized end-strengths for FY2017 and proposed end-strengths for FY2018 are in **Figure 2**.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 411 would authorize a total FY2018 Selected Reserve end-strength of 829,900 including: Army National Guard: 347,000 Army Reserve: 202,000 Navy Reserve: 59,000 Marine Corps Reserve: 38,500 Air National Guard: 106,600 Air Force Reserve: 69,800 Coast Guard Reserve: 7,000	**Sec. 411** would authorize a total FY2018 Selected Reserve end-strength of 823,900 including: Army National Guard: 343,500 Army Reserve: 199,500 Navy Reserve: 59,000 Marine Corps Reserve: 38,500 Air National Guard: 106,600 Air Force Reserve: 69,800 Coast Guard Reserve: 7,000	**Sec. 411** authorizes a total FY2018 Selected Reserve end- strength of 823,900 including: Army National Guard: 343,500 Army Reserve: 199,500 Navy Reserve: 59,000 Marine Corps Reserve: 38,500 Air National Guard: 106,600 Air Force Reserve: 69,800 Coast Guard Reserve: 7,000

Discussion: Relative to FY2017 authorized end-strengths, the Administration's FY2018 budget proposed increases for the Navy Reserve (+1,000 compared to FY2017 authorized), Air Force Reserve (+800), and Air National Guard (+900); and no change for the Marine Corps Reserve, Army National Guard, and Army Reserve.

The final bill approved end-strengths identical to the Administration's request for all the reserve components except for the Army Reserve and Army National Guard. In comparison to the Administration's request, the final bill approved an extra 500 personnel for both the Army National Guard and Army Reserve.

[3] The Selected Reserves encompass 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 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.

Figure 2. Comparison of FY2017 Enacted Selected Reserve End-Strength with FY2018 President's Budget and Enacted FY2018 NDAA

	FY2017 Enacted	President Budget	FY2018 Final Bill		Change from FY2017
Army National Guard	343,000	343,000	343,500	↑	500
Army Reserve	199,000	199,000	199,500	↑	500
Navy Reserve	58,000	59,000	59,000	↑	1,000
Marine Corps Reserve	38,500	38,500	38,500		0
Air National Guard	105,700	106,600	106,600	↑	900
Air Force Reserve	69,000	69,800	69,800	↑	800
Coast Guard Reserve	7,000	7,000	7,000		0
Total Reserve End-Str	**820,200**	**822,900**	**823,900**	↑	**9,700**

Note: Up arrows indicate increases from the FY2017 authorization.

References: Previously discussed in CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

*Military Pay Raise

Background: Concerns 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 2018 will be 2.4% 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. Section 1009. Increases in basic pay are typically effective at the start of the calendar year, rather than the fiscal year.

The FY2018 President's Budget requested a 2.1% military pay raise, lower than the statutory formula of 2.4%.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
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 2.1%. **Sec. 604** would amend the language in 37 U.S.C. 1009(e) that authorizes the President to set an alternative pay adjustment, removing language allowing the President to make such an adjustment on the grounds of "serious economic conditions affecting the general welfare."	**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...."

Discussion: The final bill requires the statutory formula go into effect, resulting in a 2.4% pay raise for all servicemembers effective on January 1, 2018. Section 604 of the Senate bill, which would have modified the language allowing the President to make an alternative pay adjustment, was not adopted.

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 R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

*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).

Some servicemembers entitled to BAH live on military bases in housing that has been privatized. During the mid-1990s, Congress granted DOD a number of special authorities to enable the department to provide incentives for private firms to partner with DOD to improve the quality of housing available to servicemembers living on military installations. Since then, the Military Housing Privatization Initiative (MHPI) has enabled DOD to rely on private sector financing, expertise, and innovation for the construction and operation of housing for both families and individual servicemembers.[4]

The FY2015 NDAA allowed the Secretary of Defense to reduce BAH payments by 1% of the national average monthly housing cost. The FY2016 National Defense Authorization Act extended this authority, authorizing an additional 1% reduction per year through 2019, for a maximum reduction of 5% of the national monthly average housing cost.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 602 would prohibit the Secretary of Defense from setting a BAH rate below that in effect on December 31, 2017, for servicemembers who reside in housing acquired or constructed under the MHPI. The prohibition would remain in effect until January 1, 2019. This provision would also require the Comptroller General to submit a report to the House and Senate Armed Services Committees on, among other things, the impact that BAH rate reductions have on the long term viability of MHPI.	No similar provision.	**Sec. 603** requires the Secretary of Defense to make payments equal to 1% of a servicemember's nonreduced BAH for each month of calendar year 2018 to lessors of "covered housing." Covered housing is defined as housing acquired or constructed under MHPI; that is leased to a member of the uniformed services who resides in such unit; and for which the lessor charges such member rent that equals or exceeds the reduced BAH rate. This provision also requires the Comptroller General to submit a report to the House and Senate

[4] As of 2012, the most recent year for which information is publicly available, DOD had privatized (i.e., transferred ownership and operation) approximately 193,000 military family housing units, or almost 80% of the domestic military family housing inventory, under 50-year agreements. The privatization of housing for unaccompanied servicemembers (barracks and dormitories) has also advanced, but at a slower pace.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
		Armed Services Committees on the management of MHPI to date, plans for MHPI after March 1, 2018, the viability of MHPI after March 1, 2018, and alternatives to MHPI.

Discussion: The amount of money paid to the companies that operate privatized housing is tied to the Basic Allowance for Housing (BAH) rates for the individual occupying the housing. As these payments may constitute a significant source of revenue for firms owning and operating privatized military housing, reductions in BAH could lower those firms' revenues. The final bill requires the Secretary of Defense to pay an amount equal to the 2018 BAH reduction throughout 2018 to the lessors of MHPI housing, effectively offsetting the reduction for that year. The final bill would also require the Comptroller General to provide to the House and Senate Armed Services Committees a report on several aspects of MHPI.

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

CRS Point of Contact: Lawrence Kapp.

*Defense Commissary System

Background: Over the past few years, Congress has been concerned with improving the Defense Commissary Agency (DeCA) system, mandating several studies and reports on the topic. Recent reform proposals have sought to reduce DeCA's reliance on appropriated funds without compromising patrons' commissary benefits or the revenue generated by DOD's nonappropriated fund (NAF) entities. However, Congress has stopped short of major changes that would significantly reduce or eliminate the commissary subsidy.

DeCA's Board of Directors establishes a desired average savings rate over commercial providers. A March 2017 GAO report found that DOD "lacks reasonable assurance that it is maintaining its desired savings rate for commissary patrons."[5] This GAO report recommends that DOD address limitations identified in its savings rate methodology; develop a plan with objectives, goals, and time frames to improve efficiency in product management; and conduct comprehensive cost-benefit analyses for service contracts and distribution options.[6] DOD concurred with the first two recommendations and partially concurred with the third, stating that "authorizing legislation is required."[7]

In the FY2017 NDAA, Congress authorized $1.2 billion in commissary funding.

[5] The GAO report was requested in S.Rept. 114-49 to accompany S. 1376, the Senate-version of the FY2016 NDAA. GAO, *Defense Commissaries: DOD Needs to Improve Business Processes to Ensure Patron Benefits and Achieve Operational Efficiencies*, GAO-17-80, March 23, 2017.

[6] Ibid., pp. 31-32.

[7] Ibid., p. 44.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
		Sec. 4501authorizes $1.39 billion for commissary operations **Sec. 4601** authorizes $40 million for the construction of a new commissary in Stuttgart, Germany.
Not Adopted	**Not Adopted**	
Sec. 632 would require a report regarding management of military commissaries and exchanges.	**Sec. 5602** would require a report on management of military commissaries and exchanges. **Sec. 5601** would require a report on use of second-destination transportation to transport fresh fruit and vegetables to commissaries in the Asia-Pacific region.	

Discussion: Section 632 of the House bill would have required DOD to submit a report regarding management practices of military commissaries and exchanges no later than 180 days after enactment of the NDAA. The report would require a cost/benefit analysis with the joint goals of reducing operating costs of military commissaries and exchanges by $2 billion over FY2018-FY2022 and not raising patron costs. Section 5602 of the Senate-passed version would have required a similar report. Neither of these provisions was adopted. The conferees referred to previous reports required by the FY2015 and FY2016 NDAA and noted that "there is little additional benefit to be gained by requiring the Department to submit another report assessing methods of achieving cost savings in the commissary and military exchange systems."[8]

The President's FY2018 budget request for $1.39 billion included funding for DeCA to operate 240 commissary stores on military installations worldwide and employ a workforce of over 14,000 civilian *full-time equivalent* employees.[9] H.R. 2810, the House bill, would have authorized $1.34 billion for DeCA's commissary operations for FY2018. This is $45 million less than the Administration's proposal with reductions in civilian personnel compensation and benefits ($20 million) and commissary operations ($25 million). In the report to accompany S. 1519 (S.Rept. 115-125), the Senate would have authorized $1.3 billion for DeCA in FY2018.[10]

Section 4501 authorizes the President's FY2018 budget request of $1.39 billion for commissary operations. Section 4601, military construction, authorizes $40 million for the construction of a new commissary in Stuttgart, Germany.

Section 5601 of the Senate-passed bill would have required a report on use of second-destination transportation (SDT) to transport fresh fruit and vegetables to commissaries in the Asia-Pacific region no later than January 1, 2018. This provision was not adopted.

[8] §634 of the FY2015 NDAA (P.L. 113-291) required a comprehensive, independent review of the defense commissary system while §651 of the FY2016 NDAA (P.L. 114-92) required the Defense Secretary to develop a plan to obtain budget neutrality for the defense commissary and the military exchange systems. DOD delivered to Congress the report required by §634 on August 26, 2015, and delivered the plan to achieve budget savings required by §651 in May 2016.

[9] The President's FY2018 budget request for commissaries is the same amount Congress authorized in FY2016. Department of Defense Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, *Defense Budget Overview Fiscal Year 2018 Budget Request*, May 12, 2017, Figure 5-1 Pay & Benefits Funding (PDF p. 41) and Figure5-6. Military Family Support Programs (PDF pp. 51-52) at http://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2018/fy2018_Budget_Request_Overview_Book.pdf.

[10] S.Rept. 115-125, *Report to Accompany* S. 1519, p. 1311.

References: CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al.; CRS Report R44120, *FY2016 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen; and CRS Report R43647, *FY2015 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Barbara Salazar Torreon.

CRS Point of Contact: Barbara Salazar Torreon.

*Survivor Benefits

Background: Under the Survivor Benefit Plan (SBP), 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 benefit to a surviving spouse or other eligible recipients. When an active duty servicemember dies, his or her survivor's payment through the SBP is usually 55% of the retired base pay that the member would otherwise have been eligible to receive. By law, surviving spouses who receive both an annuity from DOD as a beneficiary of the SBP and from the Department of Veterans Affairs' Dependency and Indemnity Compensation (DIC) must have their SBP payments reduced by the amount of DIC. Congress first authorized a payment to such surviving spouses to offset that reduction in the FY2008 NDAA.[11] This benefit is called the Special Survivor Indemnity Allowance (SSIA). Monthly SSIA payments are currently $310 and are taxable. Section 646 of the FY2017 NDAA extended the payment of SSIA until May 31, 2018.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 621 would express findings and sense of Congress that the special survivor indemnity allowance was created as a stop gap measure to reduce the SBP/DIC offset.	**Sec. 638** would make permanent extension and cost-of-living adjustments of special survivor indemnity allowances under the Survivor Benefit Plan.	**Sec. 621** adopts Senate Section 638 authorizing a permanent extension and cost-of-living adjustments of special survivor indemnity allowances under the Survivor Benefit Plan.
	Sec. 631 would make adjustments to Survivor Benefit Plan for members electing lump sum payments of retired pay under the modernized retirement system for members of the uniformed services.	**Sec. 622** adopts Senate Section 631 authorizing adjustments to the Survivor Benefit Plan for members electing lump sum payments of retired pay under the modernized retirement system for members of the uniformed services.

Discussion: Section 621 of the House-passed bill would have expressed the sense of Congress that the SSIA was created as a "stop gap" measure to assist widowed spouses by reducing the SBP/DIC offset required by law. This section also stated that the dollar-for-dollar reduction in payment to surviving spouses should be fully repealed at the first opportunity. Section 638 of the Senate-passed version was adopted by the conferees. This provision amends 10 U.S.C. Section 1450 to permanently extend the authority to pay the SSIA and would require inflation adjustments to that allowance by the amount of the military retired pay cost-of-living adjustment for each calendar year beginning in 2019.[12]

Section 622 of the final bill adopts Senate Section 631 and modifies Sections 1447 and 1452 of Title 10, United States Code, to ensure equitable treatment under the SBP of members of the

[11] P.L. 110-181 §644.

[12] From October 2016 through December 2018, $310 a month for SSIA; and for months during any calendar year after 2018, the amount determined in accordance with the COLA after 2018.

uniformed services covered by the modernized retirement system who elect to receive a lump sum of retired pay, as authorized under 10 U.S.C. §1415.

References: CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., FY2017 National Defense Authorization Act: Selected Military Personnel Issues; CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by Scott D. Szymendera; CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck; and CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck.

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 translating military skills and experience into post-service education and employment opportunities. Three DOD programs of note are the Transition Assistance Program (TAP);[13] the Credentialing Opportunities Online (COOL);[14] and the DOD Skillbridge program, which is also known as the Job Training, Employment Skills Training, Apprenticeships, and Internships (JTEST-AI) program.[15]

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Transition Services and Requirements **Sec. 529** would require written notification to other-than-honorably discharged servicemembers of eligibility to petition the Veterans Benefit Administration to receive certain benefits.	*Transition Services and Requirements* **Sec. 542** would require preseparation counseling on assistance and support services for caregivers of certain veterans.	*Transition Services and Requirements* **Sec. 541** adopts Senate Sec. 542 requiring preseparation counseling on assistance and support services for caregivers of certain veterans **Sec. 528** adopts House Sec. 529 requiring written notification to other-than-honorably discharged servicemembers of eligibility to petition the Veterans Benefit Administration to receive certain benefits.
Licensing and Credentialing **Sec. 619** would direct DOD to provide states with nonclassified information about its training programs, so states can evaluate if	*Licensing and Credentialing* No similar provision.	*Licensing and Credentialing* **Sec. 542** adopts House Sec. 619 with Senate amendment limiting the authority only to members and veterans of the Army, Navy, Air

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

[14] The COOL program is authorized by §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.

[15] 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. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
this training meets state occupational licensing requirements.		Force, and Marine Corps (omits Coast Guard)
Internships/Apprenticeships **Sec. 547** would require SECDEF to expand eligibility for the United Services Military Apprenticeship Program to all uniformed servicemembers.	No similar provision.	*Internships/Apprenticeships* **Sec. 546** adopts House Sec. 547 with Senate amendment giving the SECDEF discretionary authority to expand USMAP eligibility to all uniformed servicemembers.
Not Adopted	**Not Adopted**	
Transition Services and Requirements **Sec. 579** would require a report on possible improvements to VA benefits applications and transition processes for separating servicemembers. **Sec. 580** would establish a voluntary separation oath to be administered to transitioning servicemembers. *Licensing and Credentialing* **Sec. 546** would expand professional credentialing opportunities for servicemembers to include pursuit of credentials valued by the services *or* by civilian employers. **Sec. 616** would authorize DOD and DHS to reimburse a servicemember up to $500 for relicensing costs upon separation from the service.	*Transition Services and Requirements* **Sec. 652** would add information about veteran employment opportunities from the Department of Agriculture to TAP. **Sec. 546** would establish a pilot program integrating DOD and nonfederal efforts for transition from active duty to civilian employment. **Sec. 5502** would require a review of TAP to ensure it addresses unique challenges and needs of women. **Sec. 5503** would require DOD to provide an annual report to Congress about TAP eligibility and attendance. *Licensing and Credentialing* **Sec. 533** would require a report on the transfer of skills into equivalent postsecondary credits or technical certifications for members separating from the military. *Internships/Apprenticeships* **Sec. 14003** would authorize federal agencies to participate as employers and trainers in the Skillbridge program. *Off-Duty Education* **Sec. 549** would require the SECDEF to brief the Armed Services Committees on the advisability of authorizing tuition assistance funds to be used for cyber/computing courses or programs of education.	

Discussion: The TAP curriculum culminates in a one-week course in the months immediately preceding a member's separation, retirement, or release from active duty. Congress has required that certain information be provided and specific topics covered in the associated preseparation

counseling.[16] Provisions in the final bill (Sections 528 and 541) expand some of these statutory requirements. Not adopted were provisions that would have required a review of TAP to ensure that it is meeting the needs of female servicemembers, an annual report to Congress on the participation of members of the Armed Forces in TAP, and a report on possible ways to improve the handoff between DOD and the VA during servicemember transition.

Also not adopted was Section 546 of the Senate bill that would have established a two-year pilot program to integrate and coordinate the various components of DOD's education, transition, and credentialing programs with state and local programs and agencies. Conferees noted that

> the military services have partnered closely with state and local communities to implement programs to help servicemembers gain post-military employment. The conferees are aware of several model re-employment initiatives in states such as Florida and Arizona. Therefore, the conferees encourage the Department of Defense to replicate these model programs in other states....

In terms of licensing and credentialing, the final bill contains a provision (§542) that seeks to improve the "accuracy and completeness" of employment skills verification and certification for members transitioning out of the military and seeking civilian employment. It requires DOD to establish a database to record all training relevant to civilian employment for the armed services and to make verifiable information available to states and potential employers.

Section 616 of the House bill would have authorized DOD and DHS to reimburse a servicemember up to $500 for relicensing costs upon separation from the service and would also require the Secretaries to work with states on improving portability of licenses between states. This provision was not adopted; however, the conference report called for GAO to "assess the panoply of benefits and programs available government-wide to separating servicemembers" and to provide a report to Congress by October 1, 2018.

The United Services Military Apprenticeship Program (USMAP) allows eligible servicemembers to complete civilian apprenticeships while on active duty and earn a nationally recognized "Certificate of Completion" from the Department of Labor.[17] Program eligibility has been limited to the Coast Guard, Marine Corps, and Navy. Section 546 of the final bill expands program eligibility to all uniformed servicemembers at the Secretary of Defense's discretion.

Not adopted was a Senate provision (§14003) that would seek to broaden job training opportunities through DOD's Skillbridge program by authorizing federal agencies to participate in the program as employers and trainers. However, the conferees "strongly urge the Secretary, in consultation with the Director, OPM, to take such actions as are necessary to encourage and enable other Federal agencies to participate in the SkillBridge program."[18]

Finally, not adopted was Section 549 of the Senate bill that would have required the Secretary of Defense to brief House Armed Services Committee and Senate Armed Services Committee on the feasibility and advisability of enacting into law authority to use tuition assistance program funds for "courses or programs of education in cybersecurity skills or related skills and computer coding skills or related skills." Currently tuition assistance funds can be used for a variety of undergraduate, graduate, vocational/technical, or certificate programs.

---

[16] 10 U.S.C. §1142.

[17] For more information see the Department of Labor Employment and Training Administration website, at https://doleta.gov/OA/usmap.cfm.

[18] U.S. Congress, House Committee on Armed Services, *Conference Report to Accompany H.R. 2810, National Defense Authorization Act for Fiscal Year 2018*, committee print, 115th Cong., 1st sess., November 2017.

References: 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.

*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.[19] These policy documents built on recommendations from the Joint Task Force for Sexual Assault Prevention and Response and on 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 Sexual Assault Prevention and Response Office (SAPRO) was established as a permanent office serving as DOD's primary oversight body for all service-level programs. Sexual harassment policy and oversight is handled by DOD's Office of Diversity and Military Equal Opportunity.[20] Between 2012 and 2017, DOD took a number of steps to implement its own strategic initiatives as well as dozens of congressionally mandated actions related to sexual assault prevention and response, victim services, reporting and accountability, and military justice.[21] In FY2016, estimated sexual assault prevalence rates across the DOD's active-duty population were 4.3% for women and 0.6% for men. These estimated prevalence rates were slightly lower than reported prevalence rates in 2014 (4.9% and 0.9%, respectively).[22]

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Reporting and Accountability	*Reporting and Accountability*	*Reporting and Accountability*
Sec. 512 would require public availability of the number and disposition of decided claims in which sexual assault is alleged to have contributed to the original characterization of a discharge or release from the military.	**Sec. 520** is similar to House Sec. 512.	**Sec. 521** adopts House Sec. 512 and Senate Sec. 520 requiring public availability of the number and disposition of decided claims in which sexual assault is alleged to have contributed to the original characterization of a discharge or release from the military.
Sec. 517 would codify Sec. 547 of the FY2015 NDAA which requires a process for review of characterization of terms of discharge of members of the Armed Forces who are survivors of sex-related offenses.	**Sec. 518** is similar to House Sec. 517.	**Sec. 522** adopts House Sec. 517 and Senate Sec. 518 codifying Sec. 547 of the FY2015 NDAA which would require a process for review of characterization of terms of discharge of members of the Armed Forces who are survivors of sex-related offenses.
		Sec. 537 adopts House Sec. 527 with an amendment clarifying the

[19] DOD Directive 6495.01 and DOD Instruction 6495.02.

[20] Although there is a relationship between sexual harassment and sexual assault, sexual harassment/sexism is considered a form of discrimination.

[21] 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.

[22] These estimates are based on survey data for respondents who experienced behaviors consistent with the definition of sexual assault in the previous year. Department of Defense, *2016 Workplace and Gender Relations Survey of Active Duty Members; Overview Report*, OPA Report No. 2016-050, May 2017, pp. 34 & 36.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 527 would require annual reporting on incidents involving sexual harassment and nonconsensual distribution of private sexual images.	No similar provision	type of reports to be included in annual reports beginning on March 1, 2020.
Sec. 528 would require annual reporting on sexual assaults committed by a member of the Armed Forces against the member's spouse or other family member.	No similar provision	**Sec. 538** adopts House Sec. 528 with an amendment allowing information to be provided in a report annex and shifting the initial reporting date to March1, 2019.
Victim Services	*Victim Services*	*Victim Services*
Sec. 525 would require Special Victims' Counsel training on support for male victims of sexual assault.	No similar provision	**Sec. 536** adopts House Sec. 525 requiring Special Victims' Counsel training on support for male victims of sexual assault
Prevention	*Prevention*	*Prevention*
No similar provision	**Sec. 548** would require sexual assault prevention and response training for enlistees in a delayed entry program.	**Sec. 535** adopts Senate Sec. 548 with an amendment that would require training to commence within 180 days after enactment.
Military Justice and Investigations	*Military Justice and Investigations*	*Military Justice and Investigations*
Sec. 523 would establish a new punitive article in the UCMJ to prohibit wrongful broadcast or distribution of intimate visual images.	**Sec. 532** would establish a new punitive article in the UCMJ to prohibit wrongful broadcast or distribution of both intimate visual images and sexually explicit conduct.	**Sec. 533** adopts Senate Sec. 532 with some definitional amendments.
Not Adopted	**Not Adopted**	
Reporting and Accountability	*Military Justice and Investigations*	
Sec. 531 would define and include the term "sexual coercion" for DOD annual reporting purposes.	**Sec. 521** would revise the Manual for Courts-Martial with respect to dissemination of visual depictions of private areas or sexually explicit conduct without the consent of the person depicted.	
Sec. 532 would require management and administration review of sexual assault prevention and response programs for the Army reserve components.		
Military Justice and Investigations		
Sec. 522 would require a minimum confinement period for conviction of certain sex-related offenses committed by members of the Armed Forces.		
Sec. 524 would allow the Special Victims' Counsel or Victims' Legal Counsel to obtain certain information in the possession of the prosecutor.		
Sec. 530 would require the Secretary of the Navy to revise		

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
policy to allow eligible former dependents of servicemembers to access Victims' Legal Counsel representation.		

Discussion: DOD is required to produce an annual report for Congress on sex-related offenses.[23] The final version of the bill adds additional reporting requirements including incidents of nonconsensual distribution of private sexual images (§537) and family-member sexual assault (§538).[24] A House provision that would have defined "sexual coercion" for the purpose of annual reporting was not adopted. Also not adopted was House Section 532 requiring additional reviews of SAPR programs for the Army National Guard and Reserve components, with a focus on monitoring timeliness of line-of-duty determinations and investigation processing.[25] The conferees instead directed DOD to provide a briefing to the armed services committees on the implementation of the Government Accountability Office's recommendations in the February 2017 GAO report, *Sexual Assault: Better Resource Management Needed to Improve Prevention and Response in the Army National Guard and Army Reserve*.[26]

Congress has raised concerns about the character of discharge for certain veterans who experienced sexual trauma while serving in the military. Psychological trauma following a sexual assault incident has been associated with negative behavioral changes in the victim such as increased drug or alcohol use, poor work performance, or other disciplinary issues. These behaviors may affect the nature of a victim's discharge from the Armed Forces. Discharges that are not under "honorable" conditions may prevent servicemembers from being eligible for certain veterans' benefits. Under certain circumstances, servicemembers may appeal these decisions through Discharge Review Boards or Boards of Correction for Military Records. Section 521 of the final bill requires DOD to provide publicly available statistics on applications to these boards from those who have alleged a relationship between sex-related offenses and the nature of their discharge. In addition, Section 522 of the final bill codifies and expands existing requirements that the services establish processes through which alleged sexual assault survivors may challenge the terms of characterization of discharge or separation.

Sexual assault prevention and response training is required by law for all new accessions within 14 duty days after initial entrance on active duty or into a duty status with a reserve component.[27] Section 535 of the final bill requires service secretaries to provide this training to enlistees in a delayed entry program prior to beginning basic training or initial active duty for training.

[23] P.L. 111-383, §1631, codified in 10 U.S.C. §1561 note. DOD makes current and archived annual reports available to the public, online at http://www.sapr.mil/index.php/reports/sapro-reports.

[24] The Statement of Administration Policy (p. 6) asks Congress to "consider whether the information required by Section 528 is already provided in annual Family Advocacy Program reports." Office of Management and Budget, *Statement of Administration Policy, H.R. 2810—National Defense Authorization Act for Fiscal Year 2018*, Washington, DC, July 11, 2017.

[25] Line of duty (LOD) determinations are the results of investigations into the member's illness, injury, disease, or death and may affect DOD medical benefits that Reserve Component members are eligible to receive. For more information, see Department of Defense, *Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements,* April 19, 2016.

[26] U.S. Congress, House Committee on Armed Services, *Conference Report to Accompany H.R. 2810, National Defense Authorization Act for Fiscal Year 2018*, committee print, 115th Cong., 1st sess., November 2017.

[27] P.L. 112-239.

Concerns about male victims of sexual assault prompted the House in 2012 to call for a review of DOD's policies and protocols for the provision of medical and mental health care for male servicemembers.[28] In a 2015 report, the GAO noted a number of areas where actions were needed to specifically address support for male victims of sexual assault. In response to this report, DOD has initiated gender-specific treatment: for example, male-only therapy groups and enhanced medical staff training on responding to and treating male victims. Section 536 of the final bill adopts a House provision which requires additional training for special victims' counsels on male-specific challenges for victims of sex-related offenses.[29]

In March 2017, the Senate Armed Services Committee held hearings in response to allegations of online sexual harassment and nonconsensual sharing of intimate images and sexually explicit photos by servicemembers on the *Marines United* website.[30] In the hearing, senior Navy and Marine Corps officials noted that perpetrators could potentially be held accountable for these actions under Articles 92 (failure to obey an order or regulation), 120 (rape and sexual assault), and/or 134 (good order and discipline) of the Uniform Code of Military Justice (UCMJ). However, General Robert B. Neller, Commandant of the Marine Corps, noted that a more explicit UCMJ provision might assist commanders in holding perpetrators accountable.[31] The conference report includes a provision (§533) that adds a punitive article to the UCMJ prohibiting the "wrongful broadcast or distribution of intimate visual images" (Article 117a, 10 U.S.C. §917a). A provision in the Senate bill (§521) that would also have amended the Manual for Courts-Martial for activities related to the nonconsensual dissemination of intimate images and sexually explicit conduct was not adopted.

Other potential changes to judicial process that were not adopted included a House provision (§524) that would create an *open discovery* rule. The Administration has expressed concern about this provision, stating,

> The Administration shares Congress' goal of preventing sexual assault in the military and holding accountable those who commit the offense. Although the Administration is sympathetic to the motivation behind Section 524, affording victim's counsel with open file discovery may have the unintended consequence of impairing the successful prosecution of cases by creating additional opportunities for the defense to challenge the victim's testimony."[32]

Although the provision was not adopted, the conferees encouraged "the President to include a provision in the Rules for Courts-Martial establishing that Special Victims' Counsel and Victims' Legal Counsel are entitled to nonprivileged case information and documentation relevant to the crimes committed against their clients."[33]

---

[28] H.Rept. 113-102.

[29] A special victims' counsel is a military or civilian attorney who is a member of the bar of a federal court or of the highest court of a state and satisfies all SVC training requirements. The special victims' counsel provides legal assistance to the victim, represents the victim's best interests, and ensures that the victim is aware of his or her rights throughout the military justice process. Relevant authorities are 10 U.S.C. §§1044, 1044e, and 1565b.

[30] See hearing transcript for U.S. Congress, Senate Committee on Armed Services, *Information Surrounding the Marines United Website*, 115th Cong., March 14, 2017.

[31] General Neller stated, "I think there may be some discussion about […] whether there are provisions within the UCMJ that may need to be more specific about this particular type of potential offense. Because this is not new—new, but there's got to be some tools for commanders to be able to address specifically."

[32] Office of Management and Budget, *Statement of Administration Policy*, H.R. 2810 - *National Defense Authorization Act for Fiscal Year 2018*, Washington, DC, July 11, 2017.

[33] U.S. Congress, House Committee on Armed Services, *Conference Report to Accompany H.R. 2810, National Defense Authorization Act for Fiscal Year 2018*, committee print, 115th Cong., 1st sess., November 2017.

References: See also CRS Report R44944, *Military Sexual Assault: A Framework for Congressional Oversight*, by Kristy N. Kamarck and Barbara Salazar Torreon, 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. CRS Report R43928, *Veterans' Benefits: The Impact of Military Discharges on Basic Eligibility*, by Umar Moulta-Ali and Sidath Viranga Panangala. Previously discussed in CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., and similar reports from earlier years.

CRS Point of Contact: Kristy N. Kamarck.

Military Childcare Programs

DOD's child development program (CDP) is a military family-oriented initiative and part of a broader range of community and family support programs.[34] The CDP delivers subsidized childcare services from birth to 12 years of age for eligible children of military personnel and certain civilian employees. About 160,000 military children receive some form of care through the CDP worldwide.[35] The CDP includes Child Development Center (CDC) facilities that are operated on military installations and are funded by a combination of appropriated and nonappropriated funds, meaning that they are partially a fee-generating activity.[36] By statute the amount of appropriated funds used to operate CDC cannot be less than the estimated amount of child care fee receipts.[37]

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 556 would require DOD to consider longer hours at CDCs and would require childcare coordinators at certain installations.	**Sec 562** is similar to House Sec. 556.	**Sec. 558** adopts House Sec. 556 and Senate Sec. 562. It requires consideration of longer hours at CDCs and authorizes service secretaries to provide childcare coordinators at certain installations.
	Sec. 557 would grant direct hire authority to recruit and appoint qualified childcare services providers to positions within DOD CDCs.	**Sec. 559** adopts Senate Sec. 557 with an amendment that sunsets the authority and require additional DOD reporting.

[34] These programs fall under the umbrella of *quality of life* programs and also include, inter alia, counseling services, transition assistance, and legal assistance.

[35] Jowers, Karen, "DOD Launches Child Care Portal," *Military Times*, January 28, 2015.

[36] The CDCs are considered a MWR (Morale, Welfare, and Recreation) *Category B* program, a program which is funded with a mix of appropriated and nonappropriated funds (APF and NAF). A *Category A* MWR program is 100% supported by APF and *Category C* programs are those that are expected to be self-sustaining with nonappropriated funds. Category B programs, "should receive substantial amounts of APF support but differ from those in Category A in part because of their ability to generate NAF revenues. That ability is limited, however, and in no case could they be sustained without substantial APF support." See Department of Defense, *Military Morale, Welfare, and Recreation (MWR) Programs*, DODI 1015.10, (2009), 5 (2001).

[37] 10 U.S.C. §1791. Child care fee receipts are those that are derived from fees paid for child care services by patrons of military CDCs.

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
	Sec. 558 would require DOD to report on the feasibility and advisability of certain childcare enhancements by March 1, 2018.	**Sec. 575** adopts Senate Sec. 558 requires DOD to report on the feasibility and advisability of certain childcare enhancements with a House amendment shifting the deadline to September 1, 2018.
	Sec. 559 would require a review of the General Schedule pay grades for DOD childcare services provider positions.	**Sec. 576** adopts Senate Sec. 559 requires a review of the General Schedule pay grades for DOD childcare services provider positions

Section 558 of the final bill would require DOD to set and maintain the hours of operation of childcare development centers in a manner that considers the "demands and circumstances" of military service. In addition, this would require service secretaries to provide childcare coordinators at each military installation where significant numbers of servicemembers with accompanying dependent children are stationed. Section 575 adopts Section 558 of the Senate bill requiring the Secretary of Defense to report by September 1, 2018, on the feasibility and advisability of (1) expanding the operating hours of childcare facilities; (2) contracting with private-sector providers to expand the availability of childcare services; (3) contracting with private-sector childcare service providers to operate DOD facilities; and (4) expanding such services to members of the National Guard and Reserves if such expansion does not substantially increase costs of childcare services for the military departments or conflict with others who have higher priority for space in childcare services programs.

Section 559 of the final bill would provide the Secretary of Defense with direct hire authority to recruit and appoint qualified childcare services providers to positions within DOD CDCs if the Secretary determines that (1) there is a critical hiring need, and (2) there is a shortage of providers. The Secretary would prescribe the regulations required and commence implementation of such direct hire authority no later than May 1, 2018. Section 576 of the final bill adopts Senate Section 559, which would require a review of the General Schedule pay grades for DOD childcare services provider positions to ensure that, in the words of the Senate committee report, "the department is offering a fair and competitive wage" for those positions.[38]

CRS Point of Contact: Kristy N. Kamarck.

Military Service Academies

There are three military service academies within DOD: the U.S. Military Academy (USMA), West Point, NY; the U.S. Naval Academy (USNA), Annapolis, MD; and the U.S. Air Force Academy (USAFA), Colorado Springs, CO. These are four-year bachelor degree-granting institutions. Cadets (USAFA and USMA) and midshipmen (USNA) receive free tuition, room and board, and a monthly stipend while enrolled. In addition to degree requirements, they also are required to participate in professional development activities throughout the academic year and in summer training periods. Qualified graduates are offered an appointment as a commissioned

[38] U.S. Congress, Senate Committee on Armed Services, *National Defense Authorization Act, Report to Accompany S. 1519*, 115th Cong., 1st sess., July 10, 2017.

officer in the Army, Air Force, Navy, or Marine Corps, and are generally required to complete at least a five-year active duty commitment.[39] The law allows for part or all of the commitment to be completed in the Reserve component.[40]

House-Passed H.R. 2810	Senate-Passed H.R. 2810	Enacted Bill P.L. 115-91
Sec. 541 would prohibit cadets and midshipmen from being released from their five-year active service commitment to play professional sports.	**Sec 543** would allow cadets and midshipmen to complete their entire five-year service commitment in the Selected Reserves in order to accept a job with a professional sports team.	**Sec. 543** codifies a requirement that service academy graduates complete at least two consecutive years of their active commissioned service obligation prior to pursuing a career as a professional athlete.

DOD policy prior to 2016 allowed for certain cadets and midshipmen to have their active service commitment reduced, stating

> Officers appointed from cadet or midshipman status will not be voluntarily released from active duty principally to pursue a professional sports activity with the potential of public affairs or recruiting benefit to the DoD during the initial 2 years of active commissioned service. A waiver to release a cadet or midshipman prior to the completion of 2 years of active service must be approved by the ASD(M&RA). Exceptional personnel with unique talents and abilities may be authorized excess leave or be released from active duty and transferred to the Selective Reserve after completing 2 years of active commissioned service when there is a strong expectation their professional sports activity will provide the DoD with significant favorable media exposure likely to enhance national recruiting or public affairs.[41]

In May 2016, then-Secretary of Defense Ashton Carter announced at the Naval Academy Commencement that he had authorized a deferment of active duty commitment for certain cadets or midshipmen who were recruited directly into professional sports.[42] On April 29, 2017, Secretary of Defense James Mattis released a memorandum to the Secretaries of the Military Departments canceling Carter's guidance and reinstating the pre-2016 policy (DODI 1322.22) that required at least two years of active service.

House Section 541 would have codified a requirement that graduates fulfill their active service commitments without exception before release to participate in professional sports (i.e., five years of active duty without early release to the Selective Reserve). Section 543 of the Senate bill would have allowed graduates selected to participate in professional athletics to accept an appointment as an officer in the Selected Reserve for the entirety of the five-year service obligation. The Administration "strongly objects" to Section 543 of the Senate bill, stating, "following graduation from a military service academy, individuals should serve as full-fledged military officers, carrying out the normal work and career expectations of an officer who has received the extraordinary benefits of a taxpayer-funded military academy education."[43]

[39] 10 U.S.C. §4348 (USMA), 10 U.S.C. §6959 (USNA) ,and 10 U.S.C. §9348 (USAFA).

[40] See, for example, 10 U.S.C. §4348(a)(3).

[41] Department of Defense, *Service Academies*, DODI 1322.22, September 24, 2015.

[42] Department of Defense, Assistant Secretary of Defense for Manpower and Reserve Affairs, *Clarification Guidance for Policy on Military Service Academy and Reserve Officer's Training Corps Graduates Seeking to Participate in Professional Activities/Sports*, May 5, 2016.

[43] White House, *Statement of Administration Policy, S1519 National Defense Authorization Act for Fiscal Year 2018*, September 7, 2017. The four-year cost to educate (tuition, room and board) in 2015 for a cadet/midshipman was

The final bill would codify a requirement that service academy graduates complete at least two consecutive years of commissioned service prior to pursuing a career as a professional athlete.[44]

References: CRS Report RL33213, *Congressional Nominations to U.S. Service Academies: An Overview and Resources for Outreach and Management*, by R. Eric Petersen and Sarah J. Eckman.

CRS Point of Contact: Kristy N. Kamarck.

Author Information

Kristy N. Kamarck
Analyst in Military Manpower

Barbara Salazar Torreon
Senior Research Librarian

Lawrence Kapp
Specialist in Military Manpower Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

approximately $200,000. The total cost per graduate (including federal government's expense to run and operate the academies) was between $423,000 (USNA) and $543,000 (USAFA).

[44] This provision amends 10 U.S.C. §§4348(a), 6959(a), and 9348(a).