

§ 12304b. Selected Reserve: order to active duty for preplanned missions in support of the combatant commands

(a) **AUTHORITY.**—When the Secretary of a military department determines that it is necessary to augment the active forces for a preplanned mission in support of a combatant command, the Secretary may, subject to subsection (b), order any unit of the Selected Reserve (as defined in section 10143(a) of this title), without the consent of the members, to active duty for not more than 365 consecutive days.

(b) **LIMITATIONS.**—(1) Units may be ordered to active duty under this section only if—

(A) the manpower and associated costs of such active duty are specifically included and identified in the defense budget materials for the fiscal year or years in which such units are anticipated to be ordered to active duty; and

(B) the budget information on such costs includes a description of the mission for which such units are anticipated to be ordered to active duty and the anticipated length of time of the order of such units to active duty on an involuntary basis.

(2) Not more than 60,000 members of the reserve components of the armed forces may be on active duty under this section at any one time.

(c) **EXCLUSION FROM STRENGTH LIMITATIONS.**—Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or total number of members in grade under this title or any other law.

(d) **NOTICE TO CONGRESS.**—Whenever the Secretary of a military department orders any unit of the Selected Reserve to active duty under subsection (a), such Secretary shall submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of such unit.

(e) **TERMINATION OF DUTY.**—Whenever any unit of the Selected Reserve is ordered to active duty under subsection (a), the service of all units so ordered to active duty may be terminated—

(1) by order of the Secretary of the military department concerned; or

(2) by law.

(f) **RELATIONSHIP TO WAR POWERS RESOLUTION.**—Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(g) **CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.**—In determining which units of the Selected Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as national security and military requirements will reasonably allow;

(2) the frequency of assignments during service career;

(3) family responsibilities; and

(4) employment necessary to maintain the national health, safety, or interest.

(h) **POLICIES AND PROCEDURES.**—The Secretaries of the military departments shall prescribe

policies and procedures to carry out this section, including on determinations with respect to orders to active duty under subsection (g). Such policies and procedures shall not go into effect until approved by the Secretary of Defense.

(i) **DEFENSE BUDGET MATERIALS DEFINED.**—In this section, the term “defense budget materials” has the meaning given that term in section 231(f)(2) of this title.

(Added Pub. L. 112–81, div. A, title V, § 516(a)(1), Dec. 31, 2011, 125 Stat. 1395; amended Pub. L. 112–239, div. A, title X, § 1014(b), Jan. 2, 2013, 126 Stat. 1908.)

REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (f), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

AMENDMENTS

2013—Subsec. (i). Pub. L. 112–239 substituted “section 231(f)(2)” for “section 231(g)(2)”.

§ 12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation

(a) Notwithstanding any other provision of law, during any period members of a reserve component are serving on active duty pursuant to an order to active duty under authority of section 12301, 12302, or 12304 of this title, the President may suspend any provision of law relating to promotion, retirement, or separation applicable to any member of the armed forces who the President determines is essential to the national security of the United States.

(b) A suspension made under the authority of subsection (a) shall terminate (1) upon release from active duty of members of the reserve component ordered to active duty under the authority of section 12301, 12302, or 12304 of this title, as the case may be, or (2) at such time as the President determines the circumstances which required the action of ordering members of the reserve component to active duty no longer exist, whichever is earlier.

(c) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.

(Added Pub. L. 98–94, title X, § 1021(a), Sept. 24, 1983, 97 Stat. 670, § 673c; amended Pub. L. 98–525, title XIV, § 1405(16), Oct. 19, 1984, 98 Stat. 2622; renumbered § 12305 and amended Pub. L. 103–337, div. A, title XVI, §§ 1662(e)(2), 1675(c)(3), Oct. 5, 1994, 108 Stat. 2992, 3017; Pub. L. 107–107, div. A, title V, § 508(a), Dec. 28, 2001, 115 Stat. 1090.)