

109TH CONGRESS
1ST SESSION

H. R. 1169

To enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extended active duty, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2005

Mr. LARSON of Connecticut (for himself, Mr. ABERCROMBIE, and Mr. TAYLOR of Mississippi) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extended active duty, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reserves Pay and Ben-
5 efits Modernization Act”.

1 **SEC. 2. PERIODS OF DEPLOYMENTS OF RESERVES OVER-**
2 **SEAS.**

3 (a) UNITED STATES CENTRAL COMMAND DEPLOY-
4 MENTS.—

5 (1) LIMITATION.—During a period when there
6 is in effect a policy of assigning units or members
7 of one or more of the active components of the
8 Armed Forces to duty in the area of responsibility
9 of the United States Central Command for a speci-
10 fied period of time of not less than one year, the
11 Secretary of Defense shall provide that the length of
12 such an assignment in the case of members of the
13 reserve components of the Armed Forces may not
14 exceed the length of such period for the cor-
15 responding active component reduced by the period
16 of time between the date of entry of the reserve com-
17 ponent members onto active duty and the date of the
18 deployment of such members for such assignment.

19 (2) TRANSITION.—Paragraph (1) applies to
20 members of reserve components assigned to duty in
21 the area of responsibility of the United States Cen-
22 tral Command on or after the date of the enactment
23 of this Act and to such members assigned to such
24 duty before such date who as of the date of the en-
25 actment of this Act have more than 90 days remain-
26 ing in such assignment.

1 (b) COMMUNICATION OF LENGTHS OF DEPLOYMENT
2 PERIODS TO RESERVES IN OPERATION IRAQI FREE-
3 DOM.—

4 (1) FINDINGS.—Congress makes the following
5 findings:

6 (A) Members of all components of the
7 Armed Forces, active and reserve, exhibit a re-
8 markable commitment and willingness to serve
9 their country in Iraq and Afghanistan and in
10 other United States military efforts around the
11 world and, in so doing, frequently face grave
12 risks and difficulties.

13 (B) While the members of the Armed
14 Forces have clearly and consistently dem-
15 onstrated their dedication to duty, much uncer-
16 tainty has arisen among them about the lengths
17 of their deployments and about when they will
18 be returned to their loved ones. This confusion
19 impairs morale and places undue strain on the
20 families of servicemembers and, in the case of
21 members of the reserve components, on their
22 civilian employers.

23 (C) Fairness to the members of the Armed
24 Forces deployed overseas requires that the De-
25 partment of Defense—

1 (i) have clear policies regarding
2 lengths of deployment periods; and

3 (ii) communicate these policies and
4 other deployment-related information to
5 them and their families.

6 (D) While many military units were de-
7 ployed months before Operation Iraqi Freedom
8 was launched on March 19, 2003, the Depart-
9 ment of Defense did not announce a policy
10 about the length of deployments until August
11 2003.

12 (E) Even after the Department of Defense
13 issued its so-called “one year boots-on-the-
14 ground” policy regarding lengths of deployment
15 periods, many of the members of units deployed
16 overseas in Operation Iraqi Freedom learned
17 shortly before their scheduled return dates that
18 their deployments would be extended for
19 months beyond the one-year period provided
20 under that policy.

21 (2) REPORT.—

22 (A) REQUIREMENT FOR REPORT.—Not
23 later than January 15, 2006, the Secretary of
24 Defense shall submit to the Committees on
25 Armed Services of the Senate and the House of

1 Representatives a report on Department of De-
2 fense policies governing the length of deploy-
3 ment periods applicable to members of reserve
4 components of the Armed Forces in connection
5 with Operation Iraqi Freedom, and on the com-
6 munication between the Department of Defense
7 and reserve component personnel and their
8 families regarding the length of the deployment
9 periods.

10 (B) CONSULTATION REQUIREMENT.—In
11 preparing the report under this section the Sec-
12 retary shall consult with the Chairman and
13 other members of the Joint Chiefs of Staff and
14 with such other officials as the Secretary con-
15 siders appropriate.

16 (C) CONTENT.—The report under this
17 paragraph shall contain a discussion of the
18 matters described in subparagraph (A), includ-
19 ing the following matters:

20 (i) The process by which the Depart-
21 ment of Defense determined its policy re-
22 garding the length of deployment periods.

23 (ii) The reason that no such policy
24 was in place before Operation Iraqi Free-
25 dom began.

1 (iii) A comparison of the policy during
2 Operation Iraqi Freedom with Department
3 of Defense deployment policies that applied
4 to previous contingency operations.

5 (iv) The timeliness of the process for
6 notifying reserve component units for acti-
7 vation.

8 (v) The process for communicating
9 with activated reserve component members
10 and their families about demobilization
11 schedules.

12 (vi) The family support programs pro-
13 vided by the National Guard and other re-
14 serve components for families of activated
15 Reserves.

16 (vii) An assessment of lessons learned
17 about how the increased operations tempo
18 of the National Guard and other reserve
19 components can be expected to affect read-
20 iness, recruitment and retention, civilian
21 employers of Reserves, and equipment and
22 supply resources of the National Guard
23 and the other reserve components.

24 (D) MATTERS FOR PARTICULAR EMPHA-
25 SIS.—In the discussion of the matters included

1 in the report under this subsection, the Sec-
 2 retary of Defense shall place particular empha-
 3 sis on—

4 (i) lessons learned, including defi-
 5 ciencies identified; and

6 (ii) near-term and long-term correc-
 7 tive actions to address the identified defi-
 8 ciencies.

9 (E) FORM OF REPORT.—The report shall
 10 be submitted in unclassified form, but may in-
 11 clude a classified annex.

12 **SEC. 3. PROMPT CORRECTION OF MILITARY PAY PROB-**
 13 **LEMS FOR RESERVE COMPONENT PER-**
 14 **SONNEL.**

15 (a) SENIOR-LEVEL ACTION ON REPORT REC-
 16 OMMENDATIONS.—The Secretary of the Army shall des-
 17 ignate a senior level official of the Department of the
 18 Army to implement the recommendations for executive ac-
 19 tion set forth in the reports of the Comptroller General
 20 entitled “Military Pay, Army National Guard Personnel
 21 Mobilized to Active Duty Experienced Significant Pay
 22 Problems”, dated November 2003, and “Military Pay,
 23 Army Reserve Soldiers Mobilized to Active Duty Experi-
 24 enced Significant Pay Problems”, dated August 2004,

1 which have not been implemented by the date of the enact-
2 ment of this Act.

3 (b) SUPERVISION.—The official designated under
4 subsection (a) shall report directly to, and be subject to
5 the direction of, the Under Secretary of Defense (Comp-
6 troller) regarding performance of the duties that the offi-
7 cial is designated to carry out under such subsection.

8 (c) TERMINATION.—The designation under sub-
9 section (a) shall terminate on the date on which the Under
10 Secretary of Defense (Comptroller) certifies to Congress
11 that all of the recommendations for executive action con-
12 tained in the reports referred to in such subsection have
13 been implemented.

14 **SEC. 4. TRICARE FOR RESERVE COMPONENT PERSONNEL.**

15 (a) EXPANDED ELIGIBILITY OF READY RESERVE
16 MEMBERS UNDER TRICARE PROGRAM.—

17 (1) UNCONDITIONAL ELIGIBILITY.—Subsection
18 (a) of section 1076b of title 10, United States Code,
19 is amended by striking “is eligible, subject to sub-
20 section (h), to enroll in TRICARE” and all that fol-
21 lows through “an employer-sponsored health benefits
22 plan” and inserting “, except for a member who is
23 enrolled or is eligible to enroll in a health benefits
24 plan under chapter 89 of title 5, is eligible to enroll
25 in TRICARE, subject to subsection (h)”.

1 (2) PERMANENT AUTHORITY.—Subsection (l) of
2 such section is repealed.

3 (3) CONFORMING REPEAL OF OBSOLETE PROVI-
4 SIONS.—Such section is further amended—

5 (A) by striking subsections (i) and (j); and

6 (B) by redesignating subsection (k) as sub-
7 section (i).

8 (b) CONTINUATION OF NON-TRICARE HEALTH BEN-
9 EFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED
10 OR ORDERED TO ACTIVE DUTY AND THEIR DEPEND-
11 ENTS.—

12 (1) REQUIRED CONTINUATION.—

13 (A) REQUIREMENT.—Chapter 55 of title
14 10, United States Code, is amended by insert-
15 ing after section 1078a the following new sec-
16 tion:

17 **“§ 1078b. Continuation of non-TRICARE health bene-**
18 **fits plan coverage for dependents of cer-**
19 **tain Reserves called or ordered to active**
20 **duty**

21 “(a) PAYMENT OF PREMIUMS.—The Secretary con-
22 cerned shall pay the applicable premium to continue in
23 force any qualified health benefits plan coverage for the
24 members of the family of an eligible reserve component
25 member for the benefits coverage continuation period if

1 timely elected by the member in accordance with regula-
2 tions prescribed under subsection (j).

3 “(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A
4 member of a reserve component is eligible for payment of
5 the applicable premium for continuation of qualified
6 health benefits plan coverage under subsection (a) while
7 serving on active duty pursuant to a call or order issued
8 under a provision of law referred to in section
9 101(a)(13)(B) of this title during a war or national emer-
10 gency declared by the President or Congress.

11 “(2) For the purposes of this section, the members
12 of the family of an eligible reserve component member in-
13 clude only the member’s dependents described in subpara-
14 graphs (A), (D), and (I) of section 1072(2) of this title.

15 “(c) QUALIFIED HEALTH BENEFITS PLAN COV-
16 ERAGE.—For the purposes of this section, health benefits
17 plan coverage for the members of the family of a reserve
18 component member called or ordered to active duty is
19 qualified health benefits plan coverage if—

20 “(1) the coverage was in force on the date on
21 which the Secretary notified the reserve component
22 member that issuance of the call or order was pend-
23 ing or, if no such notification was provided, the date
24 of the call or order;

1 “(2) on such date, the coverage applied to the
2 reserve component member and members of the fam-
3 ily of the reserve component member; and

4 “(3) the coverage has not lapsed.

5 “(d) APPLICABLE PREMIUM.—The applicable pre-
6 mium payable under this section for continuation of health
7 benefits plan coverage for the family members of a reserve
8 component member is the amount of the premium payable
9 by the member for the coverage of the family members.

10 “(e) MAXIMUM AMOUNT.—The total amount that the
11 Department of Defense may pay for the applicable pre-
12 mium of a health benefits plan for the family members
13 of a reserve component member under this section in a
14 fiscal year may not exceed the amount determined by mul-
15 tiplying—

16 “(1) the sum of one plus the number of the
17 family members covered by the health benefits plan,
18 by

19 “(2) the per capita cost of providing TRICARE
20 coverage and benefits for dependents under this
21 chapter for such fiscal year, as determined by the
22 Secretary of Defense.

23 “(f) BENEFITS COVERAGE CONTINUATION PE-
24 RIOD.—The benefits coverage continuation period under
25 this section for qualified health benefits plan coverage for

1 the family members of an eligible reserve component mem-
 2 ber called or ordered to active duty is the period that—

3 “(1) begins on the date of the call or order; and

4 “(2) ends on the earlier of—

5 “(A) the date on which the reserve compo-
 6 nent member’s eligibility for transitional health
 7 care under section 1145(a) of this title termi-
 8 nates under paragraph (3) of such section; or

9 “(B) the date on which the reserve compo-
 10 nent member elects to terminate the continued
 11 qualified health benefits plan coverage of the
 12 member’s family members.

13 “(g) EXTENSION OF PERIOD OF COBRA COV-
 14 ERAGE.—Notwithstanding any other provision of law—

15 “(1) any period of coverage under a COBRA
 16 continuation provision (as defined in section
 17 9832(d)(1) of the Internal Revenue Code of 1986)
 18 for an eligible reserve component member under this
 19 section shall be deemed to be equal to the benefits
 20 coverage continuation period for such member under
 21 this section; and

22 “(2) with respect to the election of any period
 23 of coverage under a COBRA continuation provision
 24 (as so defined), rules similar to the rules under sec-
 25 tion 4980B(f)(5)(C) of such Code shall apply.

1 “(h) NONDUPLICATION OF BENEFITS.—A member of
 2 the family of a reserve component member who is eligible
 3 for benefits under qualified health benefits plan coverage
 4 paid on behalf of the reserve component member by the
 5 Secretary concerned under this section is not eligible for
 6 benefits under the TRICARE program during a period of
 7 the coverage for which so paid.

8 “(i) REVOCABILITY OF ELECTION.—A reserve com-
 9 ponent member who makes an election under subsection
 10 (a) may revoke the election. Upon such a revocation, the
 11 member’s family members shall become eligible for bene-
 12 fits under the TRICARE program as provided for under
 13 this chapter.

14 “(j) REGULATIONS.—The Secretary of Defense shall
 15 prescribe regulations for carrying out this section. The
 16 regulations shall include such requirements for making an
 17 election of payment of applicable premiums as the Sec-
 18 retary considers appropriate.”.

19 (B) CLERICAL AMENDMENT.—The table of
 20 sections at the beginning of such chapter is
 21 amended by inserting after the item relating to
 22 section 1078a the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for de-
 pendents of certain Reserves called or ordered to active duty.”.

23 (2) APPLICABILITY.—Section 1078b of title 10,
 24 United States Code (as added by paragraph (1)),

1 shall apply with respect to calls or orders of mem-
2 bers of reserve components of the Armed Forces to
3 active duty as described in subsection (b) of such
4 section, that are issued by the Secretary of a mili-
5 tary department before, on, or after the date of the
6 enactment of this Act, but only with respect to
7 qualified health benefits plan coverage (as described
8 in subsection (c) of such section) that is in effect on
9 or after the date of the enactment of this Act.

10 **SEC. 5. CHILD CARE FOR CHILDREN OF MEMBERS OF**
11 **ARMED FORCES ON ACTIVE DUTY FOR OPER-**
12 **ATION ENDURING FREEDOM OR OPERATION**
13 **IRAQI FREEDOM.**

14 (a) CHILD CARE FOR CHILDREN WITHOUT ACCESS
15 TO MILITARY CHILD CARE.—

16 (1) AUTHORITY.—In any case where the chil-
17 dren of a covered member of the Armed Forces do
18 not have practical access to a military child develop-
19 ment center, the Secretary of Defense may, to the
20 extent funds are available for such purpose, provide
21 such funds as are necessary permit the member's
22 family to secure access for such children to State li-
23 censed child care and development programs and ac-
24 tivities in the private sector that are similar in scope
25 and quality to the child care and development pro-

1 grams and activities to which the Secretary would
2 otherwise provide access under subchapter II of
3 chapter 88 of title 10, United States Code, and
4 other applicable provisions of law.

5 (2) PROCEDURES.—Funds may be provided
6 under paragraph (1) in accordance with the provi-
7 sions of section 1798 of title 10, United States
8 Code, or by such other mechanism as the Secretary
9 considers appropriate.

10 (3) PRIORITIES.—The Secretary shall prescribe
11 in regulations priorities for the allocation of funds
12 for the provision of access to child care under para-
13 graph (1) in circumstances where funds are inad-
14 equate to provide all children described in that para-
15 graph with access to child care as described in that
16 paragraph.

17 (b) PRESERVATION OF SERVICES AND PROGRAMS.—
18 The Secretary shall provide for the attendance and partici-
19 pation of children in military child development centers
20 and child care and development programs and activities
21 under subsection (a) in a manner that preserves the scope
22 and quality of child care and development programs and
23 activities otherwise provided by the Secretary.

24 (c) FUNDING.—Amounts available to the Department
25 of Defense for “Operations and Maintenance” are avail-

1 able for purposes of providing access to child care under
2 subsection (a).

3 (d) DEFINITIONS.—In this section:

4 (1) COVERED MEMBER OF THE ARMED
5 FORCES.—The term “covered member of the Armed
6 Forces” means a member of the Armed Forces on
7 active duty, including a member of the Reserves who
8 are called or ordered to active duty under a provi-
9 sion of law referred to in section 101(a)(13)(B) of
10 title 10, United States Code, for Operation Endur-
11 ing Freedom or Operation Iraqi Freedom.

12 (2) MILITARY CHILD DEVELOPMENT CENTER.—
13 The term “military child development center” has
14 the meaning given that term in section 1800(1) of
15 title 10, United States Code.

16 **SEC. 6. REDUCTION IN AGE FOR RECEIPT OF MILITARY RE-**
17 **TIRED PAY FOR NONREGULAR SERVICE.**

18 (a) REDUCTION IN AGE.—Section 12731(a)(1) of
19 title 10, United States Code, is amended by striking “at
20 least 60 years of age” and inserting “at least 55 years
21 of age”.

22 (b) APPLICATION TO EXISTING PROVISIONS OF LAW
23 OR POLICY.—With respect to any provision of law, or of
24 any policy, regulation, or directive of the executive branch,
25 that refers to a member or former member of the uni-

1 formed services as being eligible for, or entitled to, retired
 2 pay under chapter 1223 of title 10, United States Code,
 3 but for the fact that the member or former member is
 4 under 60 years of age, such provision shall be carried out
 5 with respect to that member or former member by sub-
 6 stituting for the reference to being 60 years of age a ref-
 7 erence to the age in effect for qualification for such retired
 8 pay under section 12731(a) of title 10, United States
 9 Code, as amended by subsection (a).

10 (c) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall take effect on the first day of the first
 12 month beginning on or after the date of the enactment
 13 of this Act and shall apply to retired pay payable for that
 14 month and subsequent months.

15 **SEC. 7. DEPUTY UNDER SECRETARY OF DEFENSE FOR PER-**
 16 **SONNEL AND READINESS (RESERVE AF-**
 17 **FAIRS).**

18 (a) ESTABLISHMENT OF POSITION.—

19 (1) POSITION AND DUTIES.—Chapter 4 of title
 20 10, United States Code, is amended by inserting
 21 after section 136a the following new section:

22 **“§ 136b. Deputy Under Secretary of Defense for Per-**
 23 **sonnel and Readiness (Reserve Affairs)**

24 “(a) There is a Deputy Under Secretary of Defense
 25 for Personnel and Readiness (Reserve Affairs), appointed

1 from civilian life by the President, by and with the advice
2 and consent of the Senate.

3 “(b) The Deputy Under Secretary of Defense for Per-
4 sonnel and Readiness (Reserve Affairs) shall have as his
5 principal duty the overall supervision of reserve component
6 affairs of the Department of Defense.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of such chapter is amended
9 by inserting after the item relating to section 136a
10 the following new item:

“136b. Deputy Under Secretary of Defense for Personnel and Readiness (Re-
serve Affairs).”.

11 (b) EXECUTIVE LEVEL IV.—Section 5315 of title 5,
12 United States Code, is amended by inserting after “Dep-
13 uty Under Secretary of Defense for Personnel and Read-
14 iness.” the following:

15 “Deputy Under Secretary of Defense for Personnel and
16 Readiness (Reserve Affairs).”.

17 (c) ELIMINATION OF POSITION OF ASSISTANT SEC-
18 RETARY OF DEFENSE FOR RESERVE AFFAIRS.—

19 (1) REPEAL OF REQUIREMENT FOR POSI-
20 TION.—Subsection (b) of section 138 of title 10,
21 United States Code, is amended by striking para-
22 graph (2).

23 (2) REDUCTION IN TOTAL NUMBER OF ASSIST-
24 ANT SECRETARIES OF DEFENSE.—

1 (A) AUTHORIZED NUMBER.—Subsection
2 (a) of such section is amended by striking
3 “nine” and inserting “eight”.

4 (B) CONFORMING AMENDMENT.—Section
5 5315 of title 5, United States Code, is amended
6 by striking “(9)” after “Assistant Secretaries of
7 Defense” and inserting “(8)”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 subsection (c) shall take effect on the date on which a
10 person is first appointed as Deputy Under Secretary of
11 Defense for Personnel and Readiness (Reserve Affairs).

12 **SEC. 8. FULL DISCLOSURE OF MILITARY COMMITMENT.**

13 The Secretary of Defense shall require that recruiters
14 fully define and disclose to individuals during the recruit-
15 ment process, before the point at which an individual
16 makes a commitment to enter the Armed Force, exactly
17 what the individual’s commitment to military service will
18 entail. Such disclosure shall include a description of the
19 manner in which so-called “Stop Loss” orders could affect
20 the duration of the individual’s active-duty service, how
21 the authority for activation of members of the Individual
22 Ready Reserve could affect the individual following com-
23 pletion of the individual’s expected period of active-duty
24 service, and any other potential special circumstances or

- 1 declarations could affect the total duration of the individ-
- 2 ual's service on active duty.

