SEC. ___. CLARIFICATION OF AUTHORITIES FOR PREPLANNED RESERVE ACTIVATIONS.

(a) SUPPORT FOR MILITARY DEPARTMENT FUNCTIONS.—Section 12304b of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or a preplanned function of a military department" after "combatant command"; and

(2) in subsection (b)(1)(B), by inserting "or function" after "mission".

(b) CONGRESSIONAL NOTIFICATION OF CHANGE IN MISSION.—Subsection (d) of such section is amended by striking the period at the end and inserting ", including any significant change to the mission for which such unit or individual member was anticipated to be ordered to active duty when such mission was described in the materials referred to in subsection (b)(1)(B).".

(c) APPLICABILITY TO INDIVIDUALS.—Such section is further amended—

(1) in subsection (a), by inserting "or individual member" after "any unit";

(2) in subsection (b)(1)—

(A) in the matter preceding paragraph (1), by inserting "or individual members" after "Units";

(B) in subparagraph (A), by inserting "or individual members" after "such units"; and

(C) in subparagraph (B), by inserting "or individual members" after "such units" each place it appears;

(3) in subsection (d), by inserting "or individual member" after "any unit" each place it appears;

(4) in subsection (e), in the matter preceding paragraph (1)—

(A) by inserting "or individual member" after "any unit"; and

(B) by inserting "and individual members" after "all units"; and

(5) in subsection (g), in the matter preceding paragraph (1), by inserting "or individual members" after "which units".

(d) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**in support of the combatant commands**" and inserting "**or functions**".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal amends section 12304b of title 10, United States Code, to clarify the authorities of the Department of Defense (DOD) with respect to preplanned reserve activations. Specifically, it clarifies that members of the Selected Reserve may be activated in support of military department functions, that notification to Congress of section 12304b activations should include any significant change to the anticipated missions described in the budget materials, and that the authority can be used to activate individuals as well as larger units. This clarification of authority will allow Service Secretaries to best utilize the Total Force to effectively and efficiently meet all mission requirements.

The clarification with respect to military department functions acknowledges that there are military department requirements for the use of reserve component (RC) forces in addition to combatant command (COCOM) requirements for such forces. Section 12304b is the only steady state authority the military departments have for assured access to the RC forces, and as such, is a critical tool to effectively meet all mission requirements. Examples of military department needs for the activation of RC forces include for use as flight instructors and other trainers and support personnel related to military training and instruction; "opposing force air" for service and joint training and exercises; personnel to train, evaluate, and certify RC members and units preparing for activation and operational employment; and special capabilities that are predominantly found in the RC, including medical and legal personnel. Targeted use of such RC personnel is much more cost effective and efficient than having a large active component instructor cadre that is manned for peak periods, but too much manpower for periods of lessor demand.

Section 12304b activations are preplanned one or more years in advance. However, as RC forces are preparing to activate, circumstances around the world can change necessitating RC forces be re-assigned to another similar mission or to another combatant command. Recently the Department considered re-allocating a preplanned section 12304b activation of close air support for the Pacific Command region that was no longer required to meet an unmet close air support

requirement in the Central Command region. The Department determined section 12304b was ambiguous as to whether such a reassignment was authorized and out of caution did not reassign the units.

Lastly, while the term "unit" is undefined for purposes of section 12304b, it remains unclear whether section 12304b can be used to activate a single member of the Selected Reserve who may or may not be assigned to a particular unit. By clarifying that individual members can be activated under section 12304b, it will allow the military departments to more efficiently activate only the RC forces needed for a particular mission or function.

The flexibility to revise anticipated section 12304b support, to more directly support the functions of the military departments, and to pre-plan the activation of individual members of the RC along with entire units enables the Services to fine tune force allocation decisions to meet combatant commander and service requirements with greater efficiency during inevitable changes in the global environment.

Budget Implications: There currently is no funding for this proposed expanded use of this involuntary mobilization authority in the DOD's budget. Military services are currently using the 10 U.S.C. 12302 authority to involuntarily activate RC units and individual members. This authority may only be used if the President has declared a national emergency. If the President does not extend the current national emergency, the military will need to use another authority to involuntarily mobilize RC members for critical mission requirements. As current authorities would not completely fulfill those requirements, the DOD requires this additional authority. The funding requested and appropriated for section 12302 mobilizations would instead be used for the required mobilization using other involuntarily mobilization authorities, including section 12304b, should Congress enact and be notified of the DOD's intent to use this expanded authority.

The combatant commands are currently using the existing authority to a relatively limited extent and that funding is included in both the Fiscal Year (FY) 2018 base and OCO budget requests.

Changes to Existing Law: This proposal would make the following changes to section 12304b of title 10, United States Code:

§12304b. Selected Reserve: order to active duty for preplanned missions or functions ~~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 <u>or a preplanned function of a military department</u>, the Secretary may, subject to subsection (b), order any unit <u>or individual member</u> 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 <u>or individual members</u> 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 <u>or individual members</u> are anticipated to be ordered to active duty; and

(B) the budget information on such costs includes a description of the mission or function for which such units or individual members are anticipated to be ordered to active duty and the anticipated length of time of the order of such units or individual members 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 or individual member 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 or individual member, including any significant change to the mission for which such unit or individual member was anticipated to be ordered to active duty when such mission was described in the materials referred to in subsection (b)(1)(B).

(e) Termination of Duty.-Whenever any unit or individual member of the Selected Reserve is ordered to active duty under subsection (a), the service of all units or individual members 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 or individual members 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.