SEC. 623. CLARIFICATION OF AUTHORITY FOR RECORDING OBLIGATIONS FOR INSTALLMENT PAYMENTS OF INCENTIVE PAYS, ALLOWANCES, AND SIMILAR BENEFITS WHEN PAYMENT IS DUE.

(a) IN GENERAL.—Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§1016. Recordation of installment payment obligations

"(a) In the case of any pay, allowance, bonus, or other benefit described in subsection (b) that is paid to a member of the uniformed services on an installment basis, each installment payment shall be charged to appropriations that are available for obligation at the time such payment is payable.

"(b) Subsection (a) applies to any incentive pay, special pay, or a bonus, or a similar periodic payment of pay or allowances, or of educational benefits or stipends, that is paid to a member of the uniformed services under this title or title 10.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1016. Recordation of installment payment obligations.".

Section-by-Section Analysis

This proposal would provide express authority for the long-established practice of the Department of Defense (DoD) of obligating bonus and special/incentive pay installment payments at the time payment is due and payable. A recent U.S. Government Accountability Office (GAO) opinion, *Comp. Gen. B-325526 – Obligation of Bonuses under Military Service Agreements, July 16, 2014*, concluded that the Department cedes fiscal exposure to service members when it enters into such agreements and should change its obligational practices to obligate the entire bonus amount when the agreement is signed. Although the Department disagrees with the GAO's legal conclusion because it is not liable to make installment payments if it elects to separate or discharge members, enactment of this proposal would remove any ambiguity or need for further legal review or interpretation.

Budgetary Implications: Changing the Department's bonus obligation policy/process as recommended by GAO carries significant up-front and continuing costs. This proposal will directly authorize the Department's longstanding obligational policy. Initial rough estimates of not enacting the proposal and commencing obligation of out-year installments in the initial year indicate a potential up-front budgetary impact of $3 to $4 billion across the military departments. In addition to the up-front budgetary impact, such a change in obligation policy is wasteful, in that it would prevent the expenditure of significant amounts of enacted budgetary authority and would preclude budgeting and appropriation of such amounts for other requirements.

This proposal would generate a recurring and permanent increase in the level of expired unobligated and unexpended balances in the military personnel accounts. A considerable number of out-year installment payments will never be made as some members will not complete training; others will die or separate. Still others will not maintain required certifications or fulfill other conditions for continued payments. As such events occur, amounts will be de-obligated in expired accounts. The expired budgetary resources never will be expended and cannot be used to satisfy other requirements.

Unless this proposal is enacted, there is an increased likelihood of larger annual marks for prior-year unobligated/unexpended balances from Congress because recordation of all installments against the initial year military personnel appropriation will materially increase expired, unobligated account balances when members separate in subsequent years or otherwise fail to qualify for out-year bonus installments. This loss in budget authority is minimized under the Department's current, more efficient and accurate obligation policy.

Changes to Existing Law: This proposal would add a new section to title 37, United States Code, as set forth above,