

108TH CONGRESS  
2D SESSION

# S. 2035

To amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2004

Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DEWINE, Mrs. CLINTON, Ms. MURKOWSKI, Mr. ALLEN, Mr. SMITH, Ms. LANDRIEU, Mr. REID, Mr. LAUTENBERG, Mr. PRYOR, Mr. KERRY, Ms. CANTWELL, Mrs. LINCOLN, Mr. AKAKA, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mrs. MURRAY, Mr. DORGAN, Mr. JOHNSON, Mr. BINGAMAN, Mr. DAYTON, Mr. KENNEDY, Ms. MIKULSKI, and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Guard and Reserve  
3 Readiness and Retention Act of 2004”.

4 **SEC. 2. ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR**  
5 **SERVICE.**

6 (a) AGE AND SERVICE REQUIREMENTS.—Subsection  
7 (a) of section 12731 of title 10, United States Code, is  
8 amended to read as follows:

9 “(a)(1) Except as provided in subsection (c), a person  
10 is entitled, upon application, to retired pay computed  
11 under section 12739 of this title, if the person—

12 “(A) satisfies one of the combinations of re-  
13 quirements for minimum age and minimum number  
14 of years of service (computed under section 12732 of  
15 this title) that are specified in the table in para-  
16 graph (2);

17 “(B) performed the last six years of qualifying  
18 service while a member of any category named in  
19 section 12732(a)(1) of this title, but not while a  
20 member of a regular component, the Fleet Reserve,  
21 or the Fleet Marine Corps Reserve, except that in  
22 the case of a person who completed 20 years of serv-  
23 ice computed under section 12732 of this title before  
24 October 5, 1994, the number of years of qualifying  
25 service under this subparagraph shall be eight; and

1           “(C) is not entitled, under any other provision  
2           of law, to retired pay from an armed force or re-  
3           tainer pay as a member of the Fleet Reserve or the  
4           Fleet Marine Corps Reserve.

5           “(2) The combinations of minimum age and min-  
6           imum years of service required of a person under subpara-  
7           graph (A) of paragraph (1) for entitlement to retired pay  
8           as provided in such paragraph are as follows:

“Age, in years, is at least:	The minimum years of service required for that age is:
53 .....	34
54 .....	32
55 .....	30
56 .....	28
57 .....	26
58 .....	24
59 .....	22
60 .....	20.”.

9           (b) 20-YEAR LETTER.—Subsection (d) of such sec-  
10          tion is amended by striking “the years of service required  
11          for eligibility for retired pay under this chapter” in the  
12          first sentence and inserting “20 years of service computed  
13          under section 12732 of this title.”.

14          (c) EFFECTIVE DATE.—This section and the amend-  
15          ments made by this subsection (a) shall take effect on the  
16          first day of the first month beginning on or after the date  
17          of the enactment of this Act and shall apply with respect  
18          to retired pay payable for that month and subsequent  
19          months.

1 **SEC. 3. EXPANDED ELIGIBILITY OF READY RESERVE MEM-**  
 2 **BERS UNDER TRICARE PROGRAM.**

3 (a) UNCONDITIONAL ELIGIBILITY.—Subsection (a)  
 4 of section 1076b of title 10, United States Code, is amend-  
 5 ed by striking “and receive benefits” and all that follows  
 6 through “an employer-sponsored health benefits plan”.

7 (b) PERMANENT AUTHORITY.—Subsection (l) of such  
 8 section is repealed.

9 (c) CONFORMING REPEAL OF OBSOLETE PROVI-  
 10 SIONS.—Such section is further amended—

11 (1) by striking subsections (i) and (j); and

12 (2) by redesignating subsection (k) as sub-  
 13 section (i).

14 **SEC. 4. CONTINUATION OF NON-TRICARE HEALTH BENE-**  
 15 **FITS PLAN COVERAGE FOR CERTAIN RE-**  
 16 **SERVES CALLED OR ORDERED TO ACTIVE**  
 17 **DUTY AND THEIR DEPENDENTS.**

18 (a) REQUIRED CONTINUATION.—(1) Chapter 55 of  
 19 title 10, United States Code, is amended by inserting after  
 20 section 1078a the following new section:

21 **“§ 1078b. Continuation of non-TRICARE health bene-**  
 22 **fits plan coverage for dependents of cer-**  
 23 **tain Reserves called or ordered to active**  
 24 **duty**

25 “(a) PAYMENT OF PREMIUMS.—The Secretary con-  
 26 cerned shall pay the applicable premium to continue in

1 force any qualified health benefits plan coverage for the  
2 members of the family of an eligible reserve component  
3 member for the benefits coverage continuation period if  
4 timely elected by the member in accordance with regula-  
5 tions prescribed under subsection (j).

6 “(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A  
7 member of a reserve component is eligible for payment of  
8 the applicable premium for continuation of qualified  
9 health benefits plan coverage under subsection (a) while  
10 serving on active duty pursuant to a call or order issued  
11 under a provision of law referred to in section  
12 101(a)(13)(B) of this title during a war or national emer-  
13 gency declared by the President or Congress.

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

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

23 “(1) the coverage was in force on the date on  
24 which the Secretary notified the reserve component  
25 member that issuance of the call or order was pend-

1       ing or, if no such notification was provided, the date  
2       of the call or order;

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

6               “(3) the coverage has not lapsed.

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

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

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

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

1       “(f) BENEFITS COVERAGE CONTINUATION PE-  
 2 RIOD.—The benefits coverage continuation period under  
 3 this section for qualified health benefits plan coverage for  
 4 the family members of an eligible reserve component mem-  
 5 ber called or ordered to active duty is the period that—

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

7               “(2) ends on the earlier of—

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

12                     “(B) the date on which the reserve compo-  
 13                     nent member elects to terminate the continued  
 14                     qualified health benefits plan coverage of the  
 15                     member’s family members; or

16                     “(C) December 31, 2005.

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

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

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

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

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

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

23          (2) The table of sections at the beginning of such  
24          chapter is amended by inserting after the item relating  
25          to section 1078a the following new item:

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

1       (b) APPLICABILITY.—Section 1078b of title 10,  
2 United States Code (as added by subsection (a)), shall  
3 apply with respect to calls or orders of members of reserve  
4 components of the Armed Forces to active duty as de-  
5 scribed in subsection (b) of such section, that are issued  
6 by the Secretary of a military department before, on, or  
7 after the date of the enactment of this Act, but only with  
8 respect to qualified health benefits plan coverage (as de-  
9 scribed in subsection (c) of such section) that is in effect  
10 on or after the date of the enactment of this Act.

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