

115TH CONGRESS
2D SESSION

H. R. 5348

To amend title 10, United States Code, to codify and make permanent the authority of the Secretaries of the military departments to conduct programs on career flexibility to enhance retention of members of the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2018

Mr. BANKS of Indiana introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to codify and make permanent the authority of the Secretaries of the military departments to conduct programs on career flexibility to enhance retention of members of the Armed Forces, 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 “Military Career Inter-
5 mission Program Act of 2018”.

1 **SEC. 2. PERMANENT CAREER INTERMISSION PROGRAM.**

2 (a) CODIFICATION AND PERMANENT AUTHORITY.—

3 Chapter 40 of title 10, United States Code, is amended
4 by adding at the end the following new section 710:

5 **“§ 710. Career flexibility to enhance retention of**
6 **members**

7 “(a) PROGRAMS AUTHORIZED.—Each Secretary of a
8 military department may carry out programs under which
9 members of the regular components and members on Ac-
10 tive Guard and Reserve duty of the armed forces under
11 the jurisdiction of such Secretary may be inactivated from
12 active service in order to meet personal or professional
13 needs and returned to active service at the end of such
14 period of inactivation from active service.

15 “(b) PERIOD OF INACTIVATION FROM ACTIVE SERV-
16 ICE; EFFECT OF INACTIVATION.—(1) The period of inac-
17 tivation from active service under a program under this
18 section of a member participating in the program shall be
19 such period as the Secretary of the military department
20 concerned shall specify in the agreement of the member
21 under subsection (c), except that such period may not ex-
22 ceed three years.

23 “(2) Any service by a Reserve officer while partici-
24 pating in a program under this section shall be excluded
25 from computation of the total years of service of that offi-
26 cer pursuant to section 14706(a) of this title.

1 “(3) Any period of participation of a member in a
2 program under this section shall not count toward—

3 “(A) eligibility for retirement or transfer to the
4 Ready Reserve under either chapter 571 or 1223 of
5 this title; or

6 “(B) computation of retired or retainer pay
7 under chapter 71 or 1223 of this title.

8 “(c) AGREEMENT.—Each member of the armed
9 forces who participates in a program under this section
10 shall enter into a written agreement with the Secretary
11 of the military department concerned under which agree-
12 ment that member shall agree as follows:

13 “(1) To accept an appointment or enlist, as ap-
14 plicable, and serve in the Ready Reserve of the
15 armed forces concerned during the period of the in-
16 activation of the member from active service under
17 the program.

18 “(2) To undergo during the period of the inac-
19 tivation of the member from active service under the
20 program such inactive service training as the Sec-
21 retary concerned shall require in order to ensure
22 that the member retains proficiency, at a level deter-
23 mined by the Secretary concerned to be sufficient, in
24 the military skills, professional qualifications, and

1 physical readiness of the member during the inac-
2 tivation of the member from active service.

3 “(3) Following completion of the period of the
4 inactivation of the member from active service under
5 the program, to serve two months as a member of
6 the armed forces on active service for each month of
7 the period of the inactivation of the member from
8 active service under the program.

9 “(d) CONDITIONS OF RELEASE.—The Secretary of
10 Defense shall prescribe regulations specifying the guide-
11 lines regarding the conditions of release that must be con-
12 sidered and addressed in the agreement required by sub-
13 section (c). At a minimum, the Secretary shall prescribe
14 the procedures and standards to be used to instruct a
15 member on the obligations to be assumed by the member
16 under paragraph (2) of such subsection while the member
17 is released from active service.

18 “(e) ORDER TO ACTIVE SERVICE.—Under regula-
19 tions prescribed by the Secretary of the military depart-
20 ment concerned, a member of the armed forces partici-
21 pating in a program under this section may, in the discre-
22 tion of such Secretary, be required to terminate participa-
23 tion in the program and be ordered to active service.

24 “(f) PAY AND ALLOWANCES.—(1) During each
25 month of participation in a program under this section,

1 a member who participates in the program shall be paid
2 basic pay in an amount equal to two-thirtieths of the
3 amount of monthly basic pay to which the member would
4 otherwise be entitled under section 204 of title 37 as a
5 member of the uniformed services on active service in the
6 grade and years of service of the member when the mem-
7 ber commences participation in the program.

8 “(2)(A) A member who participates in a program
9 shall not, while participating in the program, be paid any
10 special or incentive pay or bonus to which the member is
11 otherwise entitled under an agreement under chapter 5 of
12 title 37 that is in force when the member commences par-
13 ticipation in the program.

14 “(B) The inactivation from active service of a mem-
15 ber participating in a program shall not be treated as a
16 failure of the member to perform any period of service
17 required of the member in connection with an agreement
18 for a special or incentive pay or bonus under chapter 5
19 of title 37 that is in force when the member commences
20 participation in the program.

21 “(3)(A) Subject to subparagraph (B), upon the re-
22 turn of a member to active service after completion by the
23 member of participation in a program—

24 “(i) any agreement entered into by the member
25 under chapter 5 of title 37 for the payment of a spe-

1 cial or incentive pay or bonus that was in force when
2 the member commenced participation in the program
3 shall be revived, with the term of such agreement
4 after revival being the period of the agreement re-
5 maining to run when the member commenced par-
6 ticipation in the program; and

7 “(ii) any special or incentive pay or bonus shall
8 be payable to the member in accordance with the
9 terms of the agreement concerned for the term spec-
10 ified in clause (i).

11 “(B)(i) Subparagraph (A) shall not apply to any spe-
12 cial or incentive pay or bonus otherwise covered by that
13 subparagraph with respect to a member if, at the time
14 of the return of the member to active service as described
15 in that subparagraph—

16 “(I) such pay or bonus is no longer authorized
17 by law; or

18 “(II) the member does not satisfy eligibility cri-
19 teria for such pay or bonus as in effect at the time
20 of the return of the member to active service.

21 “(ii) Subparagraph (A) shall cease to apply to any
22 special or incentive pay or bonus otherwise covered by that
23 subparagraph with respect to a member if, during the
24 term of the revived agreement of the member under sub-

1 paragraph (A)(i), such pay or bonus ceases being author-
2 ized by law.

3 “(C) A member who is ineligible for payment of a
4 special or incentive pay or bonus otherwise covered by this
5 paragraph by reason of subparagraph (B)(i)(II) shall be
6 subject to the requirements for repayment of such pay or
7 bonus in accordance with the terms of the applicable
8 agreement of the member under chapter 5 of title 37.

9 “(D) Any service required of a member under an
10 agreement covered by this paragraph after the member re-
11 turns to active service as described in subparagraph (A)
12 shall be in addition to any service required of the member
13 under an agreement under subsection (c).

14 “(4)(A) Subject to subparagraph (B), a member who
15 participates in a program is entitled, while participating
16 in the program, to the travel and transportation allow-
17 ances authorized by section 474 of title 37 for—

18 “(i) travel performed from the residence of the
19 member, at the time of release from active service to
20 participate in the program, to the location in the
21 United States designated by the member as his resi-
22 dence during the period of participation in the pro-
23 gram; and

1 “(ii) travel performed to the residence of the
2 member upon return to active service at the end of
3 the participation of the member in the program.

4 “(B) An allowance is payable under this paragraph
5 only with respect to travel of a member to and from a
6 single residence.

7 “(5) A member who participates in a program is enti-
8 tled to carry forward the leave balance existing as of the
9 day on which the member begins participation and accu-
10 mulated in accordance with section 701 of this title, but
11 not to exceed 60 days.

12 “(g) PROMOTION.—(1)(A) An officer participating in
13 a program under this section shall not, while participating
14 in the program, be eligible for consideration for promotion
15 under chapter 36 or 1405 of this title.

16 “(B) Upon the return of an officer to active service
17 after completion by the officer of participation in a pro-
18 gram—

19 “(i) the Secretary of the military department
20 concerned shall adjust the date of rank of the officer
21 in such manner as the Secretary of Defense shall
22 prescribe in regulations for purposes of this section;
23 and

24 “(ii) the officer shall be eligible for consider-
25 ation for promotion when officers of the same com-

1 petitive category, grade, and seniority are eligible for
2 consideration for promotion.

3 “(2) An enlisted member participating in a program
4 shall not be eligible for consideration for promotion during
5 the period that—

6 “(A) begins on the date of the inactivation of
7 the member from active service under the program;
8 and

9 “(B) ends at such time after the return of the
10 member to active service under the program that the
11 member is treatable as eligible for promotion by rea-
12 son of time in grade and such other requirements as
13 the Secretary of the military department concerned
14 shall prescribe in regulations for purposes of the
15 program.

16 “(h) CONTINUED ENTITLEMENTS.—A member par-
17 ticipating in a program under this section shall, while par-
18 ticipating in the program, be treated as a member of the
19 armed forces on active duty for a period of more than 30
20 days for purposes of—

21 “(1) the entitlement of the member and of the
22 dependents of the member to medical and dental
23 care under the provisions of chapter 55 of this title;
24 and

1 “(2) retirement or separation for physical dis-
2 ability under the provisions of chapters 55 and 61
3 of this title.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by inserting
6 after the item relating to section 709a the following new
7 item:

710. Career flexibility to enhance retention of members.

