

1 **SEC. __. TEMPORARY AUTHORITY TO ORDER RETIRED MEMBERS TO ACTIVE**
2 **DUTY IN HIGH-DEMAND, LOW-DENSITY ASSIGNMENTS DURING**
3 **WAR OR NATIONAL EMERGENCY.**

4 Section 688a of title 10, United States Code, is amended—

5 (1) by redesignating subsection (g) as subsection (h); and

6 (2) by inserting after subsection (f) the following new subsection:

7 “(g) EXCEPTION DURING PERIODS OF WAR OR NATIONAL EMERGENCY.—The limitations
8 in subsections (c) and (f) shall not apply during time of war or of national emergency declared by
9 the President or Congress.”.

[Please note: The “Changes to Existing Law” section at the end sets out in red-line format how the legislative text below would change existing law.]

Section-by-Section Analysis

This proposal would amend section 688a of title 10, United States Code, by inserting a new subsection (g), which would allow the Secretary of a military department to recall more than 1,000 retirees to active duty during a war or national emergency. Waiving the 1,000 member limitation on this temporary recall authority and the authority’s expiration date in time of war or of national emergency will increase the Department of Defense’s flexibility and agility in generating forces with the expertise required to respond rapidly and efficiently during such a period.

Given the unpredictability of war and national emergencies, such as the COVID 19 pandemic, waiver of the 1,000-member limit will better posture the Department to respond to unpredictable and rapidly evolving situations. The Office of the Secretary of Defense will ensure the amount of recalled retirees does not exceed the number warranted by mission requirements.

Budget Implications: This is a proposal to allow the recall of retired members if needed in a national emergency. Although it is unlikely to be needed, it gives the military departments the flexibility to meet emerging needs in such an emergency. Any budget requirements will be determined at the time of need and funded either from existing authorities or any supplemental enacted to support the emergency.

Changes to Existing Law: This proposal would make the following changes to section 688a of title 10, United States Code:

§688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments

(a) **AUTHORITY.**—The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements. Any such order may be made only with the consent of the member ordered to active duty and in accordance with an agreement between the Secretary and the member.

(b) **DURATION.**—The period of active duty of a member under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

(c) **LIMITATION.**—No more than a total of 1,000 members may be on active duty at any time under subsection (a).

(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority to order a retired member to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

(e) **INAPPLICABILITY OF CERTAIN PROVISIONS.**—Retired members ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

(f) **EXPIRATION OF AUTHORITY.**—A retired member may not be ordered to active duty under this section outside a period as follows:

(1) The period beginning on December 2, 2002, and ending on December 31, 2011.

(2) The period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018 and ending on December 31, 2022.

(g) EXCEPTION DURING PERIODS OF WAR OR NATIONAL EMERGENCY.—The limitations in subsections (c) and (f) shall not apply during time of war or of national emergency declared by the President or Congress.

(gh) HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED. —In this section, the term “high-demand, low-density military capability” means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.