

**Operational Support: Resolve Involuntary Call Up Authorities (10 USC 12304b)**

**ROA urges Congress to afford Guard and Reserve members who are involuntarily mobilized the same benefits and entitlements regardless which statutory mobilization authority is used.**

In 2011 the Department of Defense requested 10 USC 12304b be established as an authority that would allow the services to involuntarily call-up Guard and Reserve members. It was passed by Congress in the Fiscal Year 2012 National Defense Authorization Act (P.L. 112-81).

**§ 12304b. Selected Reserve: order to active duty for preplanned missions 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, the Secretary may, subject to subsection (b), order any unit 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.*

The Department requested this change for several reasons: (1) to provide additional manpower because of end strength reductions, (2) to fill the gap for other authorities that were expiring/not being funded with the military reductions in Iraq and Afghanistan and (3) to provide Guard and Reserve availability for active duty planning and programming offices.

*In 2012, Admiral Debbink testified, “This modification is needed to ensure timely access to Reserve force personnel during future periods of relative geopolitical stability. In an era of emerging global contingencies which may not warrant a Congressional or Presidential declaration of war or national emergency, the Department of Defense lacks the flexibility to access Reserve Component members to participate in total force solutions to meet rapidly evolving requirements.”*

Members involuntarily mobilized under 12304b receive significantly less compensation than those doing the same mission but involuntarily mobilized under a different statutory authority. Members mobilized under 12304b are prevented from receiving the following:

<ul style="list-style-type: none"> <li>• 5 USC 5538, Nonreduction in pay while serving in the uniformed services or National Guard</li> <li>• 5 USC 6361, Definition (Leave Bank for Federal Civilian Employees in Reserves Who Were Activated During Persian Gulf War)</li> </ul>	<ul style="list-style-type: none"> <li>• 10 USC 1074(d), Certain primary and preventive health care services (pre-)</li> <li>• 10 USC 1079, Contracts for medical care for spouses and children</li> <li>• 10 USC 1145, Health benefits (post-)</li> <li>• 10 USC 12731 (f), Age and service requirements (reduced age for retirement)</li> <li>• 10 USC 16131, Educational assistance program: establishment; amount (MGIB-SR)</li> </ul>
<ul style="list-style-type: none"> <li>• 37 USC 436, High-deployment allowance: lengthy or numerous deployments; frequent mobilizations</li> <li>• 37 USC 910, Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service</li> </ul>	<ul style="list-style-type: none"> <li>• 38 USC 3103, Periods of eligibility (Vocational Rehabilitation)</li> <li>• 38 USC 3301, Definitions (Post-9/11 G.I. Bill)</li> </ul>

Note: 10 USC 1175a, Voluntary separation incentive passed in P.L. 114-328 (Sec. 526)

Costs will not be as high as with other call-ups because Congress provided a limit of 60,000 servicemembers at any one time; not to exceed 365 days. Other authorities allow Congress and the Secretary of Defense to mobilize forces without any personnel limitation while the

President can call-up 200,000 to 1 million personnel. To get a better understanding of 12304b costs it helps to look at usage since 2014:

2925	Army National Guard
1100	Army Reserves
575	Marine Corps
87	Air National Guard
12	Air Force Reserves
<u>6</u>	Navy
4705	TOTAL

Currently, some benefits are not available because §12304b is not included in the list with other mobilization authorities where title X defines “contingency operation” in Section 101(a)(13) (B).

**§ 101. Definitions**

(13) The term “contingency operation” means a military operation that—  
(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

However, a DoD memo dated May 1, 2014 explains 12304b can be used to support a contingency operation in Section 101(a)(13):

*Subject to DoD policy, provided the Service complies with the requirements of §12304b, including that Units (as defined in §10143(a)) 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 are anticipated to be ordered to active duty; and*
- (B) the budget information on such costs includes a description of the mission for which such units are anticipated to be ordered to active duty and the anticipated length of time of the order of such units to active duty on an involuntary basis.*

With the drawdown of military support in Iraq and Afghanistan it is tempting to think the need for Reserve Forces would be reduced, but that is not the case. For example, the Marine Corps Reserve will lead the Special-Purpose Marine Air-Ground Task Force–South mission in Honduras, Guatemala, El Salvador and Belize. These reserve Marines will be mobilized under 12304b. When performing this mission the reservists are exposed to the Zika virus. Because this virus can manifest itself after their military orders end servicemembers are left without military medical care because they don't receive post-deployment health benefits in Title 10 USC 1145.