

House Concurrent Resolution No. 31

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROORDA.

3633L.011

1 **Whereas**, after the Vietnam War, the United States Congress created the stop loss
2 program, which is the involuntary extension of a military member's active duty service under his
3 or her enlistment contract in order to retain military personnel beyond their initial end-of-term
4 service (ETS) date; and
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6 **Whereas**, this stop loss program has been used in the first Persian Gulf War, during
7 military deployments in Somalia, Haiti, Bosnia, and Kosovo, and during the September 11, 2001,
8 terrorist attacks and the subsequent War on Terror; and
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10 **Whereas**, every person who enlists in a branch of the United States Armed Forces
11 signs an initial contract with an eight-year service obligation. The enlistment contract for an
12 active-duty member generally stipulates an initial period of active duty from two to four years,
13 followed by service in a reserve component of the United States Armed Forces for the remainder
14 of the eight-year obligation. Service members whose retirement or ETS obligation date falls
15 during a period of military deployment are generally involuntarily extended until the end of the
16 deployment of the member's unit; and
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18 **Whereas**, while the stop loss program has been challenged several times, the
19 federal courts have consistently found that military service members contractually agree that their
20 term of service may be involuntarily extended; and
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22 **Whereas**, the stop loss program is founded on federal law, 10 U.S.C. Section
23 12305(a), which states:

24 "...the President may suspend any provision of law relating to promotion,
25 retirement, or separation applicable to any member of the armed forces who the
26 President determines is essential to the national security of the United States"; and
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28 **Whereas**, in addition, the Armed Forces Enlistment Contract states: "In the event
29 of war, my enlistment in the Armed Forces continues until six (6) months after the war ends,
30 unless the enlistment is ended sooner by the President of the United States."; and

31 **Whereas**, the use of stop loss service has been criticized by activists and some
32 politicians as an abuse of the spirit of the law, on the basis that Congress has not formally
33 declared war, such as in the case of the Iraq War; and
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35 **Whereas**, while challenges to the involuntary extension of a soldier's enlistment
36 date back to the American Civil War, the first legal challenge to the contemporary stop loss
37 program came in August 2004 with a lawsuit by a California National Guardsman. The
38 Guardsman argued the military breached his enlistment contract by involuntarily extending his
39 term of service. The arguments were rejected and the case was dismissed; and
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41 **Whereas**, similar lawsuits and appeals challenging the stop loss program and the
42 validity of the law that authorized it were all unsuccessful; and
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44 **Whereas**, Secretary of Defense Robert Gates, as one of his first acts, issued a
45 memorandum compelling commanders to "minimize" the stop-lossing of soldiers; and
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47 **Whereas**, the United States Army currently allows enlisted soldiers facing stop loss
48 to voluntarily separate by request, but only after the soldier has completed an involuntary
49 deployment of twelve to fifteen months and ninety days of stabilization time; and
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51 **Whereas**, despite Secretary Gates' order, by April 2008 use of stop loss has
52 increased by 43%. Soldiers affected by stop loss were then serving, on average, an extra 6.6
53 months, with sergeants through sergeants first class making up 45% of these soldiers; and
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55 **Whereas**, from 2002 through April 2008, 58,200 soldiers were affected by stop
56 loss, or approximately 1% of active duty, Reserve, and National Guard troops:
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58 **Now, therefore, be it resolved** that the members of the House of
59 Representatives of the Ninety-fifth General Assembly, Second Regular Session, the Senate
60 concurring therein, hereby strongly urge the United States Congress to enact legislation formally
61 ending the Department of Defense Stop Loss Program which involuntarily extends the active
62 duty service obligation of military personnel; and
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64 **Be it further resolved** that the Chief Clerk of the Missouri House of
65 Representatives be instructed to prepare properly inscribed copies of this resolution for Barack

66 Obama, President of the United States; Robert Gates, Secretary of Defense; the Majority and
67 Minority Leaders of the United States Senate and United States House of Representatives; and
68 each member of the Missouri Congressional delegation.

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