

Future of Space Force Reserve and Guard Forces

By First Lieutenant Tara Buckles², USMC

1.8: USERRA and Other Laws

2.0: Paid Leave

Background

The 2022 National Defense Authorization Act (NDAA) directed the Secretary of Defense to “conduct a study to determine the appropriate role and organization of space-related assets within the reserve components of the Armed Forces.”³ This report, due March 31, 2022 was required to discuss the organization of space-related units in the reserve components of the Armed Forces, including the costs of establishing a Space National Guard.⁴

Ultimately, the proposal delivered to Congress suggested an entirely new approach to reserve forces that would provide for both full-time and part-time options for Guardians.⁵ Both full and part-time Guardians would be members of one singular component of the space force, so there would not be a separate reserve component.⁶ This proposal however did not provide for a National Guard component of the Space Force.⁷ The proposal argued that this unique approach to reserve forces would allow the Space Force to best recruit and retain space expertise in the increasingly competitive private sector.⁸

¹ I invite the reader’s attention to www.roa.org/lawcenter. You will find approximately 1500 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws that are especially pertinent to those who serve our country, along with a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. In our “state laws” section, we have an article for each state about the state laws that grant paid military leave and other benefits, over and above USERRA, to employees of the state and (often) to employees of the state’s political subdivisions.

² Tara, a life member of ROA, is a First Lieutenant in the Marine Corps. Tara holds a B.S. in Business Administration with a second major in Public Policy from the University of North Carolina at Chapel Hill. She graduated cum laude from the University of Pittsburgh School of Law in May 2022 and sat for the Texas bar exam. After passing the bar exam, she will go on active duty in the Marine Corps. Military title is used for identification only. The views expressed in this article are the views of the author, and not necessarily the views of the Marine Corps, the Department of the Navy, the Department of Defense, or of the U.S. Government. This article was written before Tara ascended to Active Duty.

³ National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 913, 135 Stat. 402.

⁴ *Id.*

⁵ *No Space Guard in New Pentagon Proposal to Congress*, NGAUS, <https://www.ngaus.org/newsroom/no-space-guard-new-pentagon-proposal-congress>. (last visited Feb. 1, 2023)

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Following up on this proposal, the 2023 NDAA, signed into law by President Biden on December 23, 2022, required the Secretary of Defense to submit another report detailing how the Space Force would transition to a single component.⁹ The report is to include details on how Guardians would be permitted to transfer between duty statuses, how retirement and promotions would be determined, and other logistical considerations.

Despite the passage of this bill, Congress is not “all-in” on the idea of having both part-time and full-time Guardians in lieu of a Space National Guard. In fact, despite what passed in the NDAA, in May, Senators Rubio (R-FL) and Feinstein (D-CA) introduced a bill to create a Space National Guard.¹⁰ Their argument for the creation of a Space National Guard is the existence of 14 Air National Guard units with space-related missions.¹¹ These units are home to about 2,000 personnel in California, Alaska, Arkansas, Hawaii, Florida, Colorado, Ohio, New York, and Guam.¹²

Prior to the signing of the 2023 NDAA, the White House Office of Management and Budget issued a statement “strongly oppos[ing]” the creation of a Space Guard, claiming it would increase yearly costs by up to \$500 million.

March 2023 Secretary of Defense Report

While the full Secretary of Defense Report is not yet available, the Chief of Space Operations, General B. Chance Saltzman, provided a written statement before the Senate Armed Services Subcommittee on Strategic Forces on March 14, 2023. This statement included the following discussion of the Space Force’s approach to talent management:

With Congressional support, we will improve our modern talent management system by integrating the Air Force Reserve space element into the Space Force as a single component. This will strengthen our recruiting and retention efforts by providing unique, flexible career paths. The proposed talent management system update would allow Guardians to transfer between full-time and part-time duty to pursue opportunities outside full-time military service and subsequently return to full-time duty without barriers to reentry or detriment to their career. Part-time Guardians would bring valuable commercial industry experience back to the Space Force. Such opportunities will help us attract highly skilled, technologically inclined people in an increasingly competitive space enterprise talent market. The single service personnel management system will allow Guardians to achieve their potential and drive innovation within the Space Force. The system will also make retaining highly qualified Guardians easier by facilitating flexible career paths. We look forward to working with this committee on this important initiative.

⁹ James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263.

¹⁰ Thomas Novelty, *Nominee for Top Space Force Job Grilled over National Guard*, MILITARY.COM (Sep. 13, 2022), <https://www.military.com/daily-news/2022/09/13/nominee-top-space-force-job-grilled-over-national-guard.html>.

¹¹ *Id.*

¹² *Id.*

We will continue to keep you updated on the future development of the Space Force Reserve and Auxiliary Forces.

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If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Organization of America
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Washington, DC 20002¹⁴

¹³ Congress recently established the United States Space Force as the 8th uniformed service.

¹⁴ You can also contribute on-line at www.roa.org.

