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AJR-22 Transgender service members. (2017-2018)

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Assembly Joint Resolution No. 22

CHAPTER 209

Relative to transgender service members.

[Filed with Secretary of State September 25, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 22, Low. Transgender service members.

This measure would state that the Legislature respectfully disagrees with statements posted on Twitter by the President of the United States proposing to ban transgender Americans from military service, and would call upon the Governor of California to direct the Armed Forces of the state to take no action that discriminates against transgender service members on the basis of their gender identity or expression, unless superseded by federal law. The measure would also urge the United States Secretary of Defense James Mattis to allow transgender service members who are otherwise able to serve to remain in the United States Armed Forces and recommend to President Trump that transgender individuals who are otherwise able to serve be permitted to join the United States Armed Forces.

Fiscal Committee: no

WHEREAS, The protection of all residents from discrimination is a fundamental role of government; and

WHEREAS, California is a national leader in protecting civil rights by enacting laws that protect transgender Californians from discrimination on the basis of gender identity or gender expression; and

WHEREAS, The Unruh Civil Rights Act provides that all persons within the state are free and equal and are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever, no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status; and

WHEREAS, The California Fair Employment and Housing Act prohibits an employer from refusing to employ or from discharging a person because of his or her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status; and

WHEREAS, In a series of tweets posted on Twitter on July 26, 2017, at 5:55, United States President Donald J. Trump announced that the "United States Government will not accept or allow transgender individuals to serve in any capacity in the U.S. military," citing "disruption" and "tremendous costs" related to health care for transgender service members; and

WHEREAS, The United States Department of Defense has announced, barring further guidance from the president, they will maintain the policy of allowing currently serving transgender Americans to stay in the military, and many are serving honorably

today; and

WHEREAS, The Department of Defense is currently conducting a study on the medical obligations it would incur, the impact on military readiness, and related questions associated with the accession of transgender individuals who are not currently serving in uniform and wish to join the military; and

WHEREAS, Any new policy decision would be inappropriate until that study is complete and thoroughly reviewed by the Secretary of Defense, our military leadership, and the Congress of the United States; and

WHEREAS, There is no lawful or practical reason to force service members who are able to fight, train, and deploy to leave our military — regardless of their gender expression or gender identity; and

WHEREAS, Estimates suggest that between 1,320 and 6,630 transgender Americans are on active duty, which is about 0.05 percent of the total military population, and some estimate that as many as 15,000 transgender adults are currently serving on active duty in the military or in the National Guard or Reserve forces; and

WHEREAS, An estimated 1,500 Reserve transgender troops currently serve in the United States military and over 134,000 transgender veterans have served our nation; and

WHEREAS, A RAND Corporation study commissioned by the United States military found that medical care for transgender service members would cost approximately \$8 million a year of the Pentagon's \$600 billion budget — compared to \$84 million, which the United States military currently spends on Viagra and other erectile dysfunction drugs; and

WHEREAS, This would represent 0.13 percent of the \$6 billion annual health care expenditure for active duty service members and research suggests that costs related to health care for transgender service members would be negligible; and

WHEREAS, That same study concluded last year that the impact of allowing transgender Americans to serve openly in our nation's Armed Forces would have a minimal impact on military readiness; and

WHEREAS, The United States has a volunteer army, less than 1 percent of Americans have served in the Armed Forces since September 11, 2011, the United States Army had to triple its budget for enlistment bonuses to fill its ranks, and 18 other nations currently allow transgender people to serve openly in their militaries; and

WHEREAS, It is unlawful and illogical to turn away any American from serving in our Armed Forces who is physically qualified and patriotic enough to sign up to serve and protect our country; and

WHEREAS, Equality is good for our military and for service and every able bodied American who wants to serve our country in a time of war should be able to do so; and

WHEREAS, Turning away transgender Americans from military service would be harmful, contrary to American values, and put our nation's national security at risk; and

WHEREAS, California hosts more than 190,000 active and reserve service people from all five branches of the United States military and is home to three army bases, seven marine bases, 10 navy bases, six air force bases, and five reserve and national Coast Guard bases; and

WHEREAS, Thousands of transgender troops are currently serving in our military and an unknown number are currently in combat zones; and

WHEREAS, The President's announcement that he plans to ban transgender Americans from serving our nation's Armed Forces has sent a shocking statement to our transgender troops, which undermines an unknown number of active duty troops; and

WHEREAS, Diversity makes our national security stronger and studies have confirmed that transgender troops are not only serving, but that their open service does nothing to harm military readiness; and

WHEREAS, Numerous veterans and military leaders have come out against the President's decision, including Senator and post-9/11 veteran Joni Ernst, Senator John McCain, former Secretary of Defense Ash Carter, and Senator and Iraq War Veteran Tammy Duckworth; and

WHEREAS, On August 25, 2017, President Trump issued directives for the United States Secretary of Defense James Mattis regarding implementation of the transgender ban, which gives Mattis discretion regarding currently serving transgender service members and requires him to submit a plan regarding ascension of transgender service members and gender reassignment surgeries; and

WHEREAS, President Trump's directive prevents transgender individuals from joining the Armed Forces unless Mr. Mattis, in consultation with the Secretary of Homeland Security, "provides a recommendation to the contrary that I find convincing"; and

WHEREAS, Transgender Americans have always been a part of our Armed Forces and will continue to do so in spite of the President's announcements; and

WHEREAS, Transgender Californians are not a burden or a disruption and as United States Senator Orrin Hatch, a stalwart Republican from the state of Utah said, "transgender people are people — people who want to work hard, improve their communities, and live their lives"; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully disagrees with the statements posted on Twitter by the President of the United States proposing to ban transgender Americans from military service; and be it further

Resolved, That the Legislature of the State of California calls upon the Governor of California to direct the California National Guard, the California Air National Guard, and the other Armed Forces of the state to take no action that discriminates against transgender service members in enlistment, promotion, or any other aspect of their service, on the basis of their gender identity or expression, unless superseded by federal law, regulation, or formal directive from the United States Department of Defense; and be it further

Resolved, That the Legislature of the State of California urges Secretary of Defense James Mattis to allow transgender service members who are otherwise able to serve to remain in the United States Armed Forces; and be it further

Resolved, That the Legislature of the State of California urges Secretary of Defense James Mattis to recommend to President Trump that transgender individuals who are otherwise able to serve be permitted to join the United States Armed Forces because transgender service members do not hinder military effectiveness, disrupt unit cohesion, or tax military resources; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, to each Senator and Representative from California in the Congress of the United States, to every member of the California State Legislature, and to the author for appropriate distribution.