SEC. 545. MILITARY GROOMING AND APPEARANCE STANDARDS.

(a) MILITARY GROOMING AND APPEARANCE STANDARDS.—

(1) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 778. Grooming and appearance standards

"Grooming and appearance standards prescribed by the Secretary of a military department for members of the armed forces are not subject to the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"778. Grooming and appearance standards.".

(b) WEARING OF ITEMS OF RELIGIOUS APPAREL WITH THE UNIFORM.—Section 774(c) of such title is amended by adding at the end the following new sentence: "Such regulations are not subject to the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.).".

Section-by-Section Analysis

This legislative proposal reaffirms the authority of the Secretaries of the military departments to establish and maintain grooming and appearance standards. The Armed Forces have long asserted that uniformity of dress and appearance creates a common identity, provides visual reminders of shared experiences, reinforces a sense of tradition, and fosters pride. These factors are critical to the development of cohesion and esprit de corps.

The proposal clarifies that such standards are not subject to the rigorous standard for review embodied in the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.) [the Act] -- a "strict scrutiny" requirement.

Strict scrutiny is the most stringent standard of judicial review used by United States courts reviewing Federal law. The Act's broad language makes its "strict scrutiny" standard applicable to any substantial burden on the exercise of religion established by military uniform and appearance standards. It would require military commanders, for example, to clearly demonstrate to the courts that extreme forms of facial body art for religious purposes conflict with military interests. Each court, under the Act, would reach a determination,

potentially generating chaos in the development and enforcement of uniform military grooming and appearance standards.

Enactment of this proposal would have the effect of ensuring that in cases involving religious objections to military grooming and appearance standards, courts would apply the standards prescribed by section 774 of title 10, United States Code, and the Free Exercise Clause of the U.S. Constitution.

In sum, this proposal would have the effect of charging the military to make policy judgments regarding grooming and appearance, and ensuring that such judgments are reviewed under the standards mentioned above. Enactment is viewed by military leadership as essential to the sustainment of a robust military ethos within the Armed Forces, including the development of cohesion and esprit de corps that are absolutely essential to military readiness.

Budget Implications: The proposal has no budgetary impact. This proposal simply would clarify that Service grooming and appearance standards are not subject to the judicial standard embodied in Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.).

Changes to Existing Law: This proposal would change chapter 45 of title 10, United States Code, by modifying section 774 and by adding a new section 778, as follows:

§ 774. Religious apparel: wearing while in uniform

(a) GENERAL RULE.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

(b) EXCEPTIONS—The Secretary concerned may prohibit the wearing of an item of religious apparel—

(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or

(2) if the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

(c) REGULATIONS.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b). <u>Such regulations are not subject to the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.)</u>.

(d) RELIGIOUS APPAREL DEFINED.—In this section, the term “religious apparel” means apparel the wearing of which is part of the observance of the religious faith practiced by the member.

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§ 778. Grooming and appearance standards

Grooming and appearance standards prescribed by the Secretary of a military department for members of the armed forces are not subject to the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.)