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H.R. 3423, TO AMEND TITLE 38, UNITED STATES CODE, TO ENACT INTO LAW ELIGIBILITY OF CERTAIN VETERANS AND THEIR DEPENDENTS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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H.R. 3423, TO AMEND TITLE 38, UNITED STATES CODE, TO ENACT INTO LAW ELIGIBILITY OF CERTAIN VETERANS AND THEIR DEPENDENTS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

THURSDAY, DECEMBER 13, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC

The committee met, pursuant to call, at 10 a.m., in room 334, Cannon House Office Building, Hon. Christopher H. Smith (chairman of the committee) presiding.

Present: Representatives Smith, McKeon, Simpson, Brown, Miller, Evans, Filner, Gutierrez, Carson, Reyes, Snyder, Rodriguez, Lynch, Boozman, and Davis.

OPENING STATEMENT OF CHAIRMAN SMITH

The CHAIRMAN. The committee will come to order. Good morning to everybody. We are meeting today to take testimony on H.R. 3423, to update eligibility rules for burial of Reservists at Arlington National Cemetery.

Before we begin, I would like to welcome several new members to the committee from both sides of the aisle. Jeff Miller from Florida, John Boozman from Arkansas, Stephen Lynch from Massachusetts, and Susan Davis from California.

The committee granted Mr. Miller's request for assignment to the Subcommittees on Health and Benefits of the House Veterans' Affairs Committee. Mr. Miller is a native Floridian who was elected to the Florida Legislature in 1998. Prior to that he was a real estate broker and a deputy sheriff. He and his wife are active members in Elizabeth Chapel United Methodist Church. They have two children and two grandchildren.

The committee also granted Mr. Boozman his request for assignment to the Subcommittees on Health and Oversight of the House Committee on Veterans' Affairs.

Mr. Boozman is an optometrist from Arkansas who took the seat formerly held by Congressman Asa Hutchison, and before that by his brother Tim. He and his wife Cathy are the parents of three daughters. John and his family are actively involved in the First Baptist Church in Rogers. He also raises Polled Hereford cattle. John's background includes playing football at the University of Arkansas, so if we need someone to help us out when we get into some heavy weather, we can turn to Mr. Boozman.

Let me just say that it is very good to have these gentlemen joining the committee, and I want to welcome you. And I just want to say how happy we are to have you on the committee, and that you requested it I think is a real tribute. This is a very bipartisan committee, a very activist committee, and I know that we will benefit greatly from your service on the committee. So welcome.

And I would like to yield to my good friend, Mr. Evans, to introduce our two new colleagues on the Democrat side.

[The prepared statement of Chairman Smith appears on p. 34.]

OPENING STATEMENT OF HON. LANE EVANS, RANKING DEMOCRATIC MEMBER, FULL COMMITTEE ON VETERANS' AFFAIRS

Mr. EVANS. They have not arrived yet. When they do——

Thank you. I guess the other night it was almost like a broken record in a good sense. We got talking about how the chairman of this committee has been working so hard, and it has really paid off for us, I think, working together. We got a lot done this year and got some more work next year.

But I want to state personally, I can't think of a better working relationship between a majority chairman and a ranking member. So have a good holiday, Chris, get some rest.

I do have a little bit more to say. As a former Marine and as a member of the Veterans' Affairs Committee since 1983, I know very well that Arlington National Cemetery is a cherished parcel of this Nation's most hallowed ground.

I am confident every member of this committee remains steadfast in their commitment to honor and revere Arlington National Cemetery on behalf of our Nation's veterans. Recent events have made us aware that America's veterans continue to exemplify the bravery, courage and conviction that are pillars beneath America's freedom and success throughout the world.

Our veterans are heroes. I am pleased that today's hearing will examine the current eligibility status for burials at the National Cemetery.

As introduced, H.R. 3423 would amend the burial rules at Arlington. It would eliminate the current requirement to be 60 years of age for Reservists who are eligible for retirement pay and otherwise eligible for in-ground burial. H.R. 3423 would also provide for in-ground burial eligibility for members of the Reserve components who die in the line of duty while participating in weekend training or a 2-week training period.

In considering rules that govern eligibility for in-ground burial at the National Cemetery, we are immediately faced with conflicting needs. On one hand we must do our best to preserve the Cemetery's limited space for the men and women whose level of commitment and heroism to this Nation has been considered extraordinary.

On the other hand, we want to make a hero's burial available to the most uniformly fair extent possible to all of our heroes who deserve so much in honoring them in this way.

Thus, I turn to our witnesses. I hope the data that can provide us will help us make the determinations of the longstanding rules that retired Reservists must be at least 60 years old to be buried

at Arlington. Whether the rules should remain intact or whether we should reform the rule in some major way is a question that requires considerable thought and consideration.

I am very anxious to hear from our witnesses who have been kind enough to join us today on such short notice. I know it isn't often easy, and I appreciate their efforts to help us make the most informed decisions available on this important issue.

Thank you, Mr. Chairman.

[The prepared statement of Congressman Evans appears on p. 40.]

The CHAIRMAN. Thank you very much, I say to my good friend. It has been a very fruitful and a productive friendship and relationship on this committee, as well as with the subcommittee chairs and the ranking members. We do have a big agenda next year. We have certainly been able to push and get enacted a large number of pieces of legislation, and I want to thank you for your strong support and that of your staff.

I would like to ask our two new members if either of them would like to. Please do.

Mr. EVANS. It is a great honor to introduce Susan Davis to our committee. She is a good representative. I get daily analysis of that because my brother—she is my brother's Congresswoman. So we appreciate you coming forward and wanting to be on this committee.

OPENING STATEMENT OF HON. SUSAN A. DAVIS

Mrs. DAVIS. Thank you very much. It really is a pleasure and an honor for me to serve on the Veterans' Affairs Committee. As many of you know, San Diego has one of the largest, if not the largest—perhaps Mr. Filner can attest to that—veterans community. And it is really a pleasure for me to be here and to serve with all of you, and particularly to join my colleague, Mr. Bob Filner. Thank you very much.

Mr. EVANS. Thank you.

The CHAIRMAN. Would either of our two new members on the Republican side like to say something?

OPENING STATEMENT OF HON. JOHN BOOZMAN

Mr. BOOZMAN. I am also honored to be part of this committee. The Third District of Arkansas also has one of the highest per capita rates of veterans in the country. Also, as the son of a retired Master Sergeant, again I am honored to be here to represent our veterans.

OPENING STATEMENT OF HON. JEFF MILLER

Mr. MILLER. It certainly is an honor for me to be here and represent the First Congressional District of Florida, which stretches from Pensacola to Panama City. My district is home to five military installations and an extremely large veterans population.

While I have not served as a member of the Armed Forces, I asked to be placed on this committee specifically so that I could serve my country and the veterans back in the First Congressional District. I could not be more pleased with my assignment. I look

forward to working with all of the members on this committee for the benefit of our Nation's veterans.

The CHAIRMAN. I thank the gentleman for his comments, and again all of you are very welcome.

H.R. 3423, the subject of today's hearing, would revise existing law by eliminating the requirement that retired Reservists be in receipt of their retirement pay to be eligible for in-ground burial at Arlington. Reservists must be 60 years old to receive retired pay. Retirees in this situation who have not reached age 60 are often referred to as being the gray zone.

This bill would also make eligible for in-ground burial Reservists who die in the line of duty during inactive or active training. The bill would ensure access for retired Reservists, such as Captain Charles Burlingame III, the pilot of Flight 77, which tragically crashed into the Pentagon on September 11. Indeed, Captain Burlingame, a former Phantom fighter pilot, was one of the first casualties of the terror attacks.

The bill would also change the Army rule which prevented Captain Burlingame, a retired Reservist who was 51, from receiving full burial rights at Arlington National Cemetery. Fortunately, Captain Burlingame was eventually approved for burial in his own gravesite through a waiver approved by the Secretary of the Army. Captain Burlingame deserves the Nation's highest honor of burial at the hallowed ground of Arlington, not only because he gave his life trying to save his passengers, but because Captain Burlingame served the Nation in the Naval Reserve for over 20 years, with active duty as well as a combat aircraft pilot for F–4s.

Burial space is very limited, as we all know, at Arlington, and I appreciate the Army's interest in maintaining its strict eligibility rules. Those rules have remained pretty much the same over the last 34 years, however, but the roles of our Reserve forces have changed markedly, significantly, profoundly over the intervening period.

First, Reservists play a major role in the modern total force concept that protects our freedoms. Today we are unable to go to war without mobilizing Reservists right from the start. It seems to me to be profoundly inequitable and unfair that Reservists who serve our Nation for a minimum of 20 years should be ineligible for in-ground burial at Arlington because he or she had the misfortune to die prior to age 60.

In addition to such distinguished retirees as Captain Burlingame, this legislation would make eligible members of the Reserve component who die in the line of duty while performing weekend or 2-week Reserve duty.

Frankly, I see no reason why a Reservist's eligibility for Arlington should be based on whether that person was or was not in training status when he or she died in the line of duty. In today's military, there is often no practical difference.

The administration will testify today that this legislation will make 188,000 Reservists eligible for burial at Arlington. This is a distortion and should not be accepted at face value. In fact, all of these Reservists are already eligible for burial at Arlington if they live to the age of 60. Although the Congress does not know how many retired Reservists die before reaching the age of 60, that in-

formation is available in Defense Department records. The number is probably no more than 3,000 to 5,000 annually.

It should also be borne in mind that of the tens of thousands of retirees who die each year with Arlington eligibility, only a small fraction of those actually choose to be buried there.

Applying a similar fraction to those Reservists who die before reaching age 60 would be an accurate portrayal. That is what we seek to get, an accurate portrayal of the effect of this legislation. We are talking about a few hundred burials perhaps a year if this legislation were to become law. Moreover, the Army statement refers to the projection that Arlington will be out of space by the year 2025. However, legislation approved last year will transfer significant land from the Navy Annex to Arlington by 2010, adding as much as 25 years to the date projected in the Army's testimony.

These are important facts that should have been included, I would respectfully submit, in the Army's testimony.

In closing, let me say that our United States Army sees to it that Arlington National Cemetery indeed is a national treasure. It is hallowed ground. But the Army does not write the law on Arlington eligibility. That is something that ought to be reserved and is reserved to the Congress and this Committee as the committee of jurisdiction.

We are here today for that purpose, and I look forward to the testimony of all of our witnesses. I yield to my good friend if he has any further comments.

Mr. EVANS. No.

The CHAIRMAN. Would any other member? Chairman Simpson, do you have any opening comments?

OPENING STATEMENT OF HON. MICHAEL K. SIMPSON

Mr. SIMPSON. Mr. Chairman, I do want to thank you for calling this hearing today on this legislation. As you know, this came about because of the Reservist that died and ultimately was granted burial in Arlington Cemetery. I thank you and the ranking member for your support of our military and our Reservists.

Obviously our Reservists are playing a more and more important role in our Nation's defense. This seem to me to be only an equitable and fair piece of legislation; it makes common sense.

While I understand the Army's concern, the Administration's concern for how quickly Arlington National Cemetery is filling up, it is incumbent upon us, as we did last year, to make sure that we do everything that we can to ensure that we expand Arlington Cemetery so it is available as long as possible. And we will continue to work on that to make sure that space is available. But this seems to be a common sense piece of legislation to me, and the events of September 11 I think have brought it forward, and I thank you for holding this hearing today.

The CHAIRMAN. Thank you, Chairman Simpson. Ranking Member Reyes.

OPENING STATEMENT OF HON. SILVESTRE REYES

Mr. REYES. I want to thank you and the ranking member for calling this hearing. As I spoke to you on the floor yesterday about this, I think it is important to get a good perspective on what the

recommendations are and make a decision based on just exactly where we want to go because of the nature of the limitations of Arlington.

So I have a statement for the record if I can insert it.

The CHAIRMAN. Without objection, your full statement will be made part of the record.

[The prepared statement of Congressman Reyes appears on p. 42.]

The CHAIRMAN. Mr. Rodriguez.

OPENING STATEMENT OF HON. CIRO D. RODRIGUEZ

Mr. RODRIGUEZ. Mr. Chairman, let me just indicate that I know in the past—I have served here 4 years—we have had some discussions on this issue. And now it has come—and one of the realities is that we really need to provide more throughout the country. And I wanted to just briefly mention south Texas, both represented by Congressman Ortiz, Congressman Hinojosa, myself, Congressman Bonilla, Congressman Lamar Smith out of San Antonio, as well as the regions. We have over 250,000 veterans, and we only have one cemetery in San Antonio. As you go south almost 300 miles, we have asked and worked, and I don't even represent, you know, Cameron that has over 300,000 in the county down there, Hidalgo that has half a million people, that I don't represent, Nueces County that has almost 400,000 people, and they do not have access to a cemetery.

I would ask your help and assistance in seeing that we can provide a cemetery in south Texas where we have a large number of Mexican-Americans that have served this country, and we have had difficulty in terms of trying to provide access to. I do want to thank you, because we have expanded the only place where they can be buried, and that is at Ft. Sam Houston in San Antonio. That has been expanded.

But we fall in the same category that we have a large number of people that need and ask to be buried and have difficulty getting access to. And so as we look at this issue, one of the realities and the reason why we put stipulations is because we haven't provided sufficient, you know, and so I would ask for some help and assistance in that area, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. RODRIGUEZ. If I can clarify. All of those areas and counties I mentioned are represented by other Congressmen, not by me, at the present time.

OPENING STATEMENT OF HON. BOB FILNER

Mr. FILNER. Thank you, Mr. Chairman. Thank you for bringing this legislation to us. I would just like to follow up on Mr. Rodriguez. In San Diego we have cemeteries that are virtually just about closed for burials, and we have come up with an interesting concept called satellite cemeteries. We have had offers of donations from several cemeteries to bury veterans. The VA so far has turned a deaf ear to us, so this issue may come before this committee.

And I may also add, in your opening statement you mentioned how important our Reserves are and have become, and we are trying to honor them in death.

I would also point out that there are ways to honor them in life. I had tried to get into an appropriations bill an amendment that would pay our Reserve units who are Federal employees the difference between their civilian pay and their pay on duty right now, but that amendment was not accepted. I think we ought to be looking at that. It is not the jurisdiction of this committee, but I look to this committee because it understands the importance of Reserve units in today's military.

The CHAIRMAN. Thank you, Mr. Filner. Mr. Gutierrez.

OPENING STATEMENT OF HON. LUIS V. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I would like my statement put in the record.

The CHAIRMAN. Without objection.

[The prepared statement of Congressman Gutierrez appears on p. 43.]

Mr. GUTIERREZ. Let me just say that we are winding down the year. I know that I speak for many people on this committee and in the Congress. This has been a wonderfully productive year here in the Veterans' Committee under your leadership and your chairmanship. I wanted to say thank you to you and to our ranking member, Mr. Evans, for the productivity and the general good feeling that I know all of the members have of coming here and working in the productivity that we have here.

Following up just a little bit on one of the things that I know that we do, and that we are light-years ahead of the other body—but I think we have one of those prohibitions about talking about them like we have on the House floor, so I didn't say that, you can strike that from the record—is that we actually get things done and we are on the cutting edge of stuff.

So, Mr. Chairman, I would like once again, and I have introduced a bill, and I hope all of the members of the committee will take a look at the bill as we are looking at what we are doing today, that is updating our needs given the new realities that our fighting men and women confront, is that we should take a look, and I hope, Mr. Chairman, we can have a hearing early next year on my proposal to take care of the life insurance.

I mean $100,000 is not a lot of life insurance, and the $250,000 max is not a lot of life insurance, especially when you take into consideration all of these folks leaving their private jobs now, and everybody says, well, they can just go get another life insurance. Well, we all know even if it is our own home or something that happens to us, if it happens as a cause of war, these soldiers, if it is in wartime, their life insurance policy doesn't cover them. It has to be a life insurance policy, and I know that we can take care of that at no cost to anybody here simply by increasing—letting them increase their threshold. It is—$100,000 is a very little bit of money for somebody who isn't going to come back home. We never want them to use it, but just in case they do, hopefully we can take a look at that.

Again, Mr. Chairman, thank you. I have enjoyed working with you on every aspect of the Congress of the United States over the last 9 years. But I have really enjoyed working with you on the

Veterans' Committee under your chairmanship, and thank you, Mr. Evans, also, my ranking member.

The CHAIRMAN. Thank you very much, Mr. Gutierrez. And we will continue to work together going forward, because the challenges are very real.

You wanted to recognize the gentleman from Illinois.

Mr. EVANS. Thank you, Mr. Chairman. I am happy to welcome Stephen Lynch as a new member of this committee. He was elected in October to represent the Ninth District of Massachusetts. He continues to live in his life-long home in South Boston, and we welcome you here.

Mr. LYNCH. Thank you, Mr. Chairman. I wanted you to know how pleased I am to be a member of the committee, and I look forward to joining in the committee's work. Thank you.

The CHAIRMAN. You have my welcome as well, Mr. Lynch.

I would like to ask our first witness if he would come to the witness table. Mr. John Metzler, Jr., was born in Brooklyn, NY, on September 12 in 1947. He received his early education in Arlington, VA, and graduated from Wakefield High School in June of 1966. He attended the Pittsburgh Institute of Aeronautics and San Francisco Community College.

He served in the U.S. Army between 1966 and 1969, with a tour of duty in Vietnam, serving as a helicopter crew chief. He entered the Federal civilian service in 1974 as a national cemetery director trainee at the Beverly National Cemetery.

Since then he has held progressively more responsible positions. On January 14, 1991, Mr. Metzler was appointed as Superintendent of Arlington National Cemetery with duties that included escorting heads of state and military and political leaders from around the world.

In addition, Arlington conducts more than 5,600 funerals and 3,000 ceremonies annually. His late father, John Metzler, served as Superintendent of Arlington National Cemetery from 1951 to 1972.

Mr. Metzler, you are welcome, and please proceed.

STATEMENT OF JOHN C. METZLER, JR., SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY, DEPARTMENT OF THE ARMY

Mr. METZLER. Good morning, Mr. Chairman and other distinguished members of the committee. I appreciate this opportunity to appear before you and discuss the proposed legislation regarding eligibility criteria for burial at Arlington National Cemetery.

The Secretary of the Army is responsible for the burial policy at Arlington. I am here today to provide the Army's comments on H.R. 3423 and to answer questions you may have. Arlington National Cemetery is our country's most prominent National Cemetery and honors the men and women who have served in our Armed Forces.

In fiscal year 2001, there were 3,723 interments and 2,212 inurnments. In this current fiscal year, 2002, we estimate that there will be 3,800 interments and 2,500 inurnments. Since September 11, Arlington has interred, inurned, or memorialized 62 victims from the Pentagon attack.

H.R. 3423 would expand eligibility for burial in Arlington National Cemetery for more than 188,000 Reservists. While we are not able to anticipate the exact number, we are deeply concerned that this would broaden eligibility beyond what could be supported by the current space constraints. This would likely cause denial of burial privileges for other eligible veterans.

Recently Senators Warner and Stevens introduced legislation that narrowly tailors expansion of eligibility criteria to authorize individuals' interments in Arlington Cemetery for those retired members of the Armed Forces Reserves, who would have been eligible but for age, who died in the September 11 attack.

The Army received a request for Captain Burlingame's interment by his family. To accommodate the burial, on December 12, yesterday, as an exception to the burial policy, to honor the intent of this proposed legislation, and to spare the family any further grief, the Secretary of the Army granted an exception to allow the burial of retired Naval Reserve Captain Charles F. Burlingame III, in a separate grave at Arlington. We believe limiting burial eligibility to this narrower group is appropriate and can accommodate the limited space at Arlington.

Mr. Chairman, this concludes my remarks, and I would be more than happy to respond to your committee's questions.

[The prepared statement of Mr. Metzler appears on p. 45.]

The CHAIRMAN. Thank you very much for being here and for your very, very valuable service to the country. You do an *outstanding* job at Arlington, and I think that should be underscored in the record. We are very grateful for the work you do.

I do think that you have somewhat of a difficult job in the position that you espouse today, obviously a consensus position coming from the Army. But it does raise some serious questions in my mind. I mean, as I said in my opening statement, when you talk about 188,000 Reservists being eligible, obviously many of those Reservists will not die, thank God for that, and an even smaller subset will choose, having qualified with 20 years of service, to actually having their families inter them at Arlington.

What is a realistic number as to how many additional interments could be expected if this legislation were to be enacted? We have seen estimates of 50 per year. Obviously, I do not think that would overburden the system, especially when, as I said again in my opening, we have changed. I have been in Congress 21 years. The total force concept has taken hold completely. We couldn't afford it if we had to support an Active Duty Force big enough to meet the risks abroad.

You know, the Reserve and the National Guard component makes the difference. It makes it possible. It also, as we all know, brings in expertise that would be lost. Many of the Reservists and Guardsmen obviously have served on active duty, many of them beforehand, and have a level of competence that might not have been achieved either. And we certainly could not have retained the kind of component or the kind of military capability needed in today's world without it. But the number, do you have an estimation?

Mr. METZLER. Mr. Chairman, it would be impossible for me to tell you a number that would be accurate. I can tell you, though, that we do receive daily phone calls, weekly correspondence from

individuals who fall in this gray zone area asking about their entitlement. Once it is explained to them over the telephone, the majority of people accept that answer and make other arrangements for burial.

If I could comment on one other item that you mentioned earlier, sir. The Reserves and National Guardsmen who are mobilized for any activities, such as what is going on right now, once they are mobilized they fall in the same category as being on active duty, and if their death occurs during that mobilization period, they would be eligible for burial at Arlington Cemetery.

The CHAIRMAN. But if it doesn't, then again they are right back in the same situation. You know, they could be a Reservist, but they die after the fact, they cannot be interred.

Mr. METZLER. That is correct.

The CHAIRMAN. They cannot be interred. Doesn't that appear to you to be unfair?

Mr. METZLER. Well, it also looks at the Reserves as a whole. If you have Reservists who are never on active duty, under this legislation they would be eligible for burial. They would only be on active duty for training status such as basic training or individual advanced courses. Under this proposed legislation, they would be eligible. Yet individuals who served during World War II who didn't have any awards or decorations, who served throughout the entire World War II process, are still not eligible for ground burial.

Now, every one who does have one period of active duty service other than for training is eligible for inurnment at the columbarium complex in Arlington Cemetery.

The CHAIRMAN. Let me ask, should there be anydifference—part 2 of our legislation deals with the Reservist who dies while in a training exercise. You know, an Air Force pilot in his F–16 dies on active duty, versus an F–16 pilot in the Reserve component who dies doing the exact same thing. One can be buried at Arlington, the other cannot.

Again that seems to be an inequity that is eminently solvable. Do you support that part of the bill?

Mr. METZLER. There is a process to look at that, if that scenario takes place. Then the family, if they choose to have burial at Arlington Cemetery, could apply for an exception to policy, and of course the columbarium inurnment is available as well.

The CHAIRMAN. But they need to apply. There is an obstacle. And having gone through, as we all have, making arrangements for loved ones, in my case my parents, my father is buried in a veterans cemetery in Allentown, NJ, it is a difficult time. And when you are faced with an obstacle at that difficult time, you will find some other alternative, rather than trying to facilitate something, because it takes time, as the gentleman from California mentioned, and time is not something that someone who is in the process of making arrangements necessarily has.

It seems to me that we ought to just nail this down and say there will be an equal treatment here. I mean, I am somewhat baffled, especially if space is the issue, as I mentioned again in my opening statement, we are talking about the Navy Annex, perhaps some additional land from Ft. Myer. Necessity is the mother of invention. It seems to me that even with procuring that land, we could ex-

pand it to the year 2047 to 2050, and look for even more land and hallowed ground to inter our heroes.

Mr. METZLER. We are actively doing that, Mr. Chairman. We are trying to expand the Cemetery and trying to find additional land. With the legislation that has been passed, to give us the Navy Annex and the property on Ft. Myer.

While that legislation is in place, we still do not actually have the land yet. We are working on the number of 2025 for closure within the current 612 acres of the property of the Cemetery. I do feel confident that we will get some of this land in the future and be able to expand the Cemetery. But that hasn't happened yet, sir.

The CHAIRMAN. I am confident, too. But again, if there is an obstacle somewhere, we need to be a part of that process. If you are running into some problems in obtaining that land, let us know. But we are at 2001. 2025 with all due respect is all a little ways away, but I do think that we should be planning to expand it right into the next half of the century.

Mr. FILNER. Mr. Chairman, would you yield? I found your numbers to be very persuasive. Mr. Metzler, do you have any problem with the chairman's estimates? Do you find them in erra? I find it baffling, to use the word that the chairman used, that when you make such estimates of 188,000, you do not have—from your long experience, a percentage of those who are eligible and actually are interred, those kind of figures which the chairman used.

Do you find any problem with his methodology?

Mr. METZLER. It is difficult to give you—when you ask for an exact answer, I would just be guessing. I do not——

Mr. FILNER. Give me a guess.

Mr. METZLER. Well, typically 10 percent of veterans go to national cemeteries overall. 10 percent of the individuals who are eligible for burial go to national cemeteries. In round numbers. Of those 10 percent, Arlington may receive 8 or 9 percent of those.

The CHAIRMAN. That is assuming again that there are 188,000 that are eligible.

Mr. FILNER. Not everybody is going to die. I find the chairman's calculations to be very persuasive. If you have a problem with them, I would like to hear it.

Mr. METZLER. Well, our challenge at Arlington is to try to keep the Cemetery open for as long as possible for new burials. Of course we have done that with the restricted burial criteria that we currently have.

Mr. FILNER. With less than 1 percent, Mr. Chairman, you persuaded me.

The CHAIRMAN. I see my time did run out. I would like to yield to my good friend, Mr. Evans.

Mr. EVANS. Mr. Metzler, I am planning to offer an amendment this afternoon to this bill and would like your opinion if you could give it to us. There are currently several memorials placed within Arlington Cemetery that honor those we have lost in the events of national tragedies.

I would like to know if there is sufficient space in Arlington currently if we were to place a memorial honoring the victims of September 11. In other words, we would like to take some time to look at our most recent heroes that have arisen out of this conflict, or

war I guess would be the most appropriate word, and what I would like to do is something the President has looked at; that is, to look at permanent memorials to honor those who have died or been injured in national tragedies. Do you have any——

Mr. METZLER. As you are aware, Mr. Evans, there is a provision within our regulations, if the Congress so directs to put a monument up at Arlington Cemetery, that that would happen.

We are working with the family support group right now. As a matter of fact met with them yesterday over a couple of issues. And one of the issues is a proposed memorial in the general area of the Pentagon complex, and there were several sites offered up. One of the sites was within Arlington Cemetery.

I believe the family support group right now is leaning toward a site closer to the actual incident at the Pentagon. One of the proposals that is also being worked right now, but no solution or no conclusion has been made, is to put up a group marker to honor all individuals who were lost at the Pentagon on September 11. Now, the decision still lies with the Secretary of Defense and we have not had the final word on that, but there are two actions right now that I am aware of that are working. Whether there is space or not in Arlington Cemetery, I think I can answer the question, yes, there is space. It would be up to the Congress as to whether or not—whether they would want to do that.

Mr. EVANS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Evans. The chairman of our Benefits Committee, Mr. Simpson.

Mr. SIMPSON. Thank you, Mr. Chairman. Mr. Metzler, you do a great job. I do appreciate the job you do out there at Arlington. It is one of those places that every American ought to go and visit, because you realize the price that we have paid for our freedom.

Is the primary concern space, not the eligibility requirements that we are changing, but the fact that that infringes on the space that is available?

Mr. METZLER. That is the primary item that we are facing right now is space limitations.

Mr. SIMPSON. So the question of whether it is equitable to expand this eligibility or not really isn't a question that you have any problem with?

Mr. METZLER. The space criteria is the main issue that we are working with.

Mr. SIMPSON. So if we—I mean, I agree with the chairman that if that is the case then what we ought to be doing is working to make sure that we expand the space available and we ought to be doing it now, because as you well know, it takes a while to get those things done. And while 2025 seems like a long time, it is not that long. And if we started working on that relatively quickly, hopefully we would have that space available and expanded by the year—by the time the current space is scheduled to be expanded or extended.

So I would hope that if we passed this legislation that whatever barriers you are running into in trying to get the additional space you would let us know, because we would be more than happy as a committee, I am sure, to work with you, to do those things that are necessary to make sure that we can expand that space.

Other than that, I do not have any questions for you. I think that this is a bill that creates equity in the system, and while I understand your concern for the limited space available there, we will work with you to make sure that we can get space available to expand Arlington.

Mr. METZLER. Thank you for your support.

The CHAIRMAN. Thank you. The Chair recognizes the gentleman from California, Mr. Filner.

Mr. FILNER. No questions.

The CHAIRMAN. The Chair recognizes the gentleman from Florida, Mr. Miller.

Mr. MILLER. No questions.

The CHAIRMAN. Mr. Reyes, the ranking member on Benefits.

Mr. REYES. Thank you, Mr. Chairman.

Mr. Metzler, in your testimony you indicate that there would be an increase that may exceed 188,000 if this legislation were to be approved.

Mr. METZLER. I believe that the pool of people that fall in the gray zone area right now is 188,000 people.

Mr. REYES. 188,000. And as a number of my colleagues have mentioned, the impact is primarily on the available space that would be affected by this additional pool?

Mr. METZLER. That is correct.

Mr. REYES. That you mentioned.

How accurate of a data do we have to make these assumptions or those projections? What is it based on?

Mr. METZLER. The 188,000 come from the number of people who are currently on the rolls as gray zone Reservists that I am aware of. To project how many people will die in the future and want burial at Arlington Cemetery from the 188,000 is you—I couldn't give you an honest answer.

Mr. REYES. So let me rephrase that. When we talk about the potential impact that it will have, we are talking about not just the Reservists that we can estimate based on your number, but also immediate family?

Mr. METZLER. Yes, sir.

Mr. REYES. So is there an average there that we can conclude or does the 188,000 include——

Mr. METZLER. No. The 188,000 just includes the service member. It is unknown as to how many of these individuals would be married and have dependents and what that total number would be.

Mr. REYES. Is there an average that we could draw from to make a calculation?

Mr. METZLER. I am unable to provide that information to you. I would be more than happy to take that back and see if we can't work that back and provide it.

Mr. REYES. If you could do that, that would be helpful for me.

(The attachment follows:)

Burial at Arlington Cemetery

The average that Arlington National Cemetery could draw from to make this calculation for Reservists is 564,000. This is based upon statistics, which estimate two dependents per married servicemember.

Mr. FILNER. Would you yield? We have heard that Arlington has space until 2025. But how many spaces—how many burial spaces does that mean?

Mr. METZLER. In round numbers right now we have about 32,000 gravesites in the developed portion of the Cemetery, and approximately 30,000 sites in the undeveloped portion of the Cemetery within the 612 acres of the land that we currently own.

Mr. FILNER. How many are used a year roughly?

Mr. METZLER. New graves used a year are about 2,100.

Mr. FILNER. I would just point out, Mr. Reyes, based on the testimony, even if everybody died less than 2,000 would choose Arlington, which is less than a year's burials.

So, space pressure doesn't sound to me that severe.

Mr. REYES. Thank you.

The CHAIRMAN. Thank you very much, Mr. Reyes. The gentleman from Arkansas, Mr. Boozman.

Mr. BOOZMAN. No.

The CHAIRMAN. The gentleman from Arkansas as well, Dr. Snyder.

Mr. SNYDER. We Arkansans are starting to take over the committee once again.

Let's see, Mr. Metzler, I wanted to go back to the mathematics question here. On the—if I heard, what you said is that currently about 10 percent of all veterans choose to be buried in the veterans cemetery system somewhere; is that correct?

Mr. METZLER. That is the average number that we use. In round numbers, Yes.

Mr. SNYDER. And of that number, 8 percent to 9 percent end up being buried at Arlington of the 10 percent?

Mr. METZLER. That is right.

Mr. SNYDER. Now, the conclusion of the mathematicians at this end of the table is that meant that 1 percent then would be eligible. But I think the universes are different, are they not, because you can't apply those numbers to the 188,000, because of the 188,000 that we are talking about, they are all eligible for Arlington.

And on your veterans that die each year, that universe there is a significant number, such as myself and some of the others, that while we are veterans would not be eligible for burial at Arlington.

Mr. METZLER. For ground burial, that is correct. Plus if I could just add one other thing. We have been very active in telling the story of Arlington Cemetery to as many people as we can about eligibility and who is or isn't eligible for Arlington Cemetery. So we have campaigned very hard to get that word out.

Mr. SNYDER. I wanted to pursue the issue to me of fairness and equity, because to me the issue is bigger than just space. If it wasn't just a space problem, whenever Arlington was begun the criteria would have been all veterans with honorable service could be buried at Arlington by choice, just like they could be buried at the federal cemetery in Little Rock, Arkansas, which is now full or the new state cemetery that we just opened a few months ago.

But the decision was made in the early days at Arlington that, no, we are going to keep this—separate this off. This will be treat-

ed different than all other cemeteries. So it is more than just a space question.

In terms of equity, and I understand, I guess—who used the example if you have a National Guard person or Reservist in an F–16 and an active duty person in an F–16, they both died, the inequity.

But it also seems like there is some inequity of the example that was used of World War II. I think of my uncle, who is dead now, who was on a ship throughout World War II. The ship was hit by kamikaze planes. He saw all kinds of stuff, was not wounded, didn't qualify under this. And so he was—at the time of his death he was not eligible for burial at Arlington.

I talked to one of my young staffers this morning n Little Rock who is in the Reserve. Who—I asked—put it to him: What if he were driving, you know, home from his weekend training and had an accident, would he be offended if he wasn't eligible for Arlington? He said of course not. I would be offended if I was deployed somewhere and was treated differently.

But it seems to me there is a certain inequity of saying all of our World War II generation veterans who, God bless them, did not earn the Purple Heart, did not rise to the level here, but may have endured 3 or 4 years and some terrible situations, are not eligible and yet my young staffer who goes once a month would be eligible if he had a car crash on the way home from—or some accident, truck rolls over at camp.

I know that is not your job to sort that out. You are at the receiving end of our legislation. But it seems to me it is more than just a space available question, because we have set criteria to honor what we think are heroes.

I do not know what the answer is. I am concerned, Mr. Chairman, that in order to get at this problem brought about by Captain Burlingame, that we have got the second provision that deals with this inactive duty training that basically makes eligible somebody that has been in the Reserve forces, and I love these guys and women in the Reserve forces.

Their first weekend, if they have a traffic accident they are eligible, but all of our World War II veterans, all of the Vietnam veterans who served that didn't get a Purple Heart, are not eligible; all of the people who are in the Gulf War who didn't get these medals are not eligible, yet we are going to say our folks that die on the weekends are.

I wanted to ask——

The CHAIRMAN. Will the gentleman yield? Someone who just finished their basic training who died in a traffic accident while on active duty would be eligible for Arlington National Cemetery. So I understand.

Mr. SNYDER. It is how you compare equities.

And, you know, I do not want to lay too much on my poll of one Reservist this morning. But, I mean, I do think most of us do see differently people who have enlisted for 4 years or 6 years, who have served perhaps for 6 years or 8 years of active duty versus those who have made the decision to essentially be civilians and be in the Reserve component, but have made the decision that they are going to do it once a month and 2 weeks in a summer.

I mean, the Arlington laws have always reflected that difference. And we may, if we go down this road this afternoon, and the bill passes and becomes law, we then present some other inequities. And if I was a member of the Korean War veterans or the Chosin Reservoir veterans, I would say what about us? What about everybody who served at Chosin Reservoir? Even though they did not earn a Purple Heart, why are they not eligible for Arlington since they put up with all that bitter cold and all that?

So I think it may create some other questions.

And I am correct in that, am I not, that eligibility would include driving to and from the training on inactive duty?

Mr. METZLER. That is my understanding as well.

Mr. SNYDER. Certainly it also includes accidents unrelated to combat training; most of them I suspect would be traffic accidents or those kinds of things? Is that a fair statement, or heart attacks and——

Mr. METZLER. Yes, sir.

Mr. SNYDER. Okay. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Dr. Snyder. The Chair recognizes the gentleman from California, Mr. McKeon.

Mr. MCKEON. Thank you, Mr. Chairman. I have no questions, but I do have a statement that I would like to insert in the record.

The CHAIRMAN. Without objection your statement will be made part of the record.

[The prepared statement of Congressman McKeon appears on p. 44.]

The CHAIRMAN. The Chair recognizes Mrs. Davis, the gentlelady from California.

Mrs. DAVIS. Thank you very much. I suspect that the rest of the panel may speak to some of the more policy-related issues and the concerns that a number of groups have, but from a management perspective, could you clarify for us what are the compelling reasons that—we have talked about space, and that doesn't seem to be as much of a concern that—we would have pause to not support this proposal.

Mr. METZLER. Well, I think Dr. Snyder hit on one of the key elements. There is the inequity between someone who had served on active duty for a time in combat, or 10 years even, may not have been in combat. Those individuals would not be eligible unless they met the criteria of either being wounded with a Purple Heart, Silver Star, Distinguished Service Medal, Distinguished Service Cross, Medal of Honor, or have been a prisoner of war, or if in the case of World War II disabled with a 30 percent rate or greater before October 1, 1949. They would be eligible for inurnment in the columbarium but not for ground burial.

You take someone who was in the Reserve forces, and they could be at lunch and have an automobile accident on their weekend drill, driving back and forth from home or at summer camp and have activities at summer camp that would cause their death, whether they are in a training mode or whether they are in a nontraining mode. There seems to be a big inequity there.

Mrs. DAVIS. Are there particular management issues from your point of view dealing with this?

Mr. METZLER. I think once we get a clear set of guidance, then it would be very easy to apply that clear set of guidance. The Reserves take on a tremendous dynamics right now, because, not only we talk about weekend drills and we talk about summer camp. I think they are clearly understood. But we also have the administrative drills that may be done by our Reservists, where they will go in on a non-weekend for 4 hours to do paperwork. If they were to be killed during that, I do not know that I can clearly understand whether they would be eligible the way that the bill is currently written.

If someone gets a special detail up to the military base or to the Pentagon, it is not Reserve duty as we would understand it, or summer camp. It is not weekend drill. What happens during that time as well? The Guard and the Reserves use different authorities to bring people on board. That would have to be sorted out.

Mrs. DAVIS. Are you suggesting that the direction that you are given by this committee and by the Congress must be clear?

Mr. METZLER. If I was to apply this fairly across the board to all of the possible scenarios that come about with the Reserves and Guard, yes, ma'am, I would certainly hope that.

Mrs. DAVIS. Thank you.

Ms. CARSON. Would the Congresswoman yield? I have a question. You mentioned that spouses and dependents as a variable in the amount of space available. I recognize that is a challenge, especially with the growing numbers that you face. Are not the family buried in the same gravesite?

Mr. METZLER. Yes, ma'am, they are.

Ms. CARSON. They wouldn't affect the space in that regard?

Mr. METZLER. The challenge was trying to come up with a number. I have no idea how many people would be married or how many people would have dependents in the number of 188,000.

Ms. CARSON. So they are buried in the same gravesite?

Mr. METZLER. Whoever passed away first would go into the grave space that eventually would be occupied by the service member if he didn't pass away first. That is correct.

Ms. CARSON. Thank you very much. I yield back.

[The prepared statement of Congresswoman Carson appears on p. 44.]

The CHAIRMAN. Thank you. The Chair recognizes the gentleman from South Carolina, Mr. Brown.

Mr. BROWN OF SOUTH CAROLINA. Mr. Superintendent, in reference to the amount of space that is available in Arlington, how about the other Federal cemeteries around the Nation? What kind of extended capacity do you see there? I know you said there are 2025 gravesites at Arlington? How is the capacity in the other National Cemeteries?

Mr. METZLER. Mr. Brown, I would be way out on a limb here if I were to give you an answer there. That falls under the Department of Veterans Affairs, not the Army. I know that they are actively looking to build new National Cemeteries, have built some in the very past years, and they are larger.

Cemeteries in this region, such as Quantico, have a lot of grave space availability. But I really can't answer your question as far as how far out to the future they go.

Mr. BROWN OF SOUTH CAROLINA. Let me further ask the question then. Is there any available land to expand the capacity that you have in the immediate connected area around Arlington?

Mr. METZLER. There are. As a matter of fact, we completed a master plan a number of years ago that looked at 14 parcels of land that connect to Arlington National Cemetery. We have actively worked on three of these pieces of land, an area within the Cemetery that currently does not belong to us, referred to as Section 29, the Naval Annex property, which is directly across the street, and also the property on Ft. Myer, which borders against the Cemetery wall. We are working right now trying to get and secure this land so that we could expand the Cemetery. There still is potential for other parcels outside of that.

Mr. BROWN OF SOUTH CAROLINA. Are you getting positive feedback on those parcels?

Mr. METZLER. We are working the issue, sir.

The CHAIRMAN. Would the gentleman yield? Just to point out, and perhaps, Mr. Metzler, you may want to respond to this, the DOD conference report, Section 2863(h)(1) requires the transfer, not later than 30 days after the date of enactment, of that approximately 12 acres. So the Congress is trying to respond to the space problem. This will be up later on today. So I think that is good news. If my math is right, that could accommodate something on the order of 7,000-plus gravesites.

Mr. METZLER. Absolutely. I do want to acknowledge that Congress has been very supportive of Arlington Cemetery in trying to expand. We are getting there, but it is slow.

Mr. BROWN OF SOUTH CAROLINA. Thank you, Mr. Chairman. In light of that, the other parcels that you identified, how much additional capacity would those provide? What is the land acreage?

Mr. METZLER. I would be more than happy to provide you a chart that shows that. Each piece of property is a little different, but our overall goal is to try to expand the Cemetery for a hundred years from the year 2000, and with the inclusion of these 14 parcels of land we would accomplish that.

Mr. BROWN OF SOUTH CAROLINA. That was my question. Thank you very much, Mr. Superintendent.

The CHAIRMAN. The Chair recognizes the gentleman from Texas, Mr. Rodriguez. Mr. Lynch.

Mr. LYNCH. No questions.

The CHAIRMAN. Ms. Carson.

Ms. CARSON. I have asked them.

The CHAIRMAN. Did I miss anybody?

Mr. SNYDER. I had a quick follow-up.

Going back to our Reservists, we called this morning to our State Veterans' Department in Arkansas with our new state veterans cemetery. And the person that the bill deals with, who is in the Reserve or Guard forces and has never been on active service, has no medals or anything like that, but who dies at a weekend drill or during the 2 weeks training, they are eligible, in fact, starting from the time they leave their home driving to the training site, because some people drive quite long distances, as you know, several hundred miles even, they are eligible for burial at our state veterans cemetery.

Is that true within the Federal system?

Mr. METZLER. In the Federal system or the Veterans' Administration that is true. It is not true at Arlington.

Mr. SNYDER. And apparently at all other veterans cemeteries in the country there are—Reserve and Guard forces are eligible for burial, to deal with the situation that the chairman's bill reaches?

Mr. METZLER. Yes.

The CHAIRMAN. Thank you very much. Mrs. Davis.

Mrs. DAVIS. Thank you, Mr. Chairman. I had a follow-up question as well. It just addresses, I think, the clarification. I understand that what we are dealing with here is a relatively narrow situation, but what mechanism would be used to try and deal with the other clarification as well? I was wondering if from the committee, whether or not the issue of trying to clarify from your perspective who in fact is eligible on the different scenarios that we all feel very much for and would like everybody to be eligible, but understand that there are differences here.

Is there a mechanism? Is this a discussion that you all have had before? And I am wondering how we might be able to help the Superintendent as he moves forward.

The CHAIRMAN. Are you referring to the age issue? Because once that is gone, the mere qualification of 20 years of service would make one eligible for burial at Arlington.

In terms of the Reservist who is performing his or her service, weekend duty, 2-week duty and is killed while on a training mission, that would be pretty cut and dried as to the eligibility. It is a little bit more technical as to the commute and what the orders were as to when, you know, somebody set out from their home going to say Ft. Dix, for example, in my area where there is a great deal of Reserve training that occurs there.

Perhaps counsel might want to answer that as well, but my understanding is that if they are on their way to training it is more likely than not that they will be included in this definition.

The COUNSEL. Mrs. Davis, my understanding is that in the case of deaths while traveling to or from duty, an adjudication is made in each case and that that adjudication is based on a set of Department of Defense rules currently in place.

I do not have any reason to doubt Mr. Metzler's prior characterization, which said that, as I understood it, persons traveling to and from duty are considered to be on duty. Is that correct?

Mr. METZLER. That is correct; the weekend drills and on the summer camp, it is very clear. It is the other times that they are going to duty that there may not be orders. They may be going in on their own to do administrative work. That is unclear.

The COUNSEL. He has a general counsel that can assist him if there is a particular case where the rules are not clear.

Mrs. DAVIS. Okay. So, am I to assume then that we do address that and that you have at least enough to go on to follow through with the families right now? I was hearing something a little different. That is why I asked the question.

Thank you.

The CHAIRMAN. Okay. Mr. Metzler, I want to thank you for your testimony, and we look forward to working with you in the future. We are on the same page when it comes to expanding Arlington.

I regret that you do not support the legislation or the Army does not support it. My hope is that we will pass it, and I think Arlington will be able to handle the numbers of those who die prior to 60 if we were to enact this into law. And if there is any problem with that, we certainly will work with you on further expansion.

So again I want to thank you for being here.

Mr. METZLER. Thank you.

The CHAIRMAN. I would like to ask our second panel if they would come to the witness table. That includes Mr. Bob Manhan, the Assistant Director of The National Legislative Service for Veterans of Foreign Wars of the United States; Mr. Steven Garrett, the Deputy Legislative Director of The Retired Enlisted Association; Mr. Richard Schneider, Director of State/Veterans Affairs, Non Commissioned Officers Association; Mr. Bob Norton, Director of Government Relations for The Retired Officers Association, and Mr. Patrick Eddington, the Associate Director for the Vietnam Veterans of America.

STATEMENTS OF BOB MANHAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICES, VETERANS OF FOREIGN WARS OF THE UNITED STATES; STEVEN GARRETT, DEPUTY LEGISLATIVE DIRECTOR, THE RETIRED ENLISTED ASSOCIATION; RICHARD C. SCHNEIDER, DIRECTOR OF STATE/VETERANS AFFAIRS, NON-COMMISSIONED OFFICERS ASSOCIATION; BOB NORTON, DIRECTOR OF GOVERNMENT RELATIONS, THE RETIRED OFFICERS ASSOCIATION; AND PATRICK EDDINGTON, ASSOCIATE DIRECTOR, VIETNAM VETERANS OF AMERICA

The CHAIRMAN. Mr. Manhan, if you would begin.

STATEMENT OF BOB MANHAN

Mr. MANHAN. Thank you, Mr. Chairman.

Before I address this particular bill, on behalf of the VFW, I would like to extend a warm and personal welcome to your three newest committee members, Mrs. Davis and Mr. Boozman and Mr. Miller. It will always be VFW's privilege and pleasure to respond immediately and courteously to any requests you may have regarding Veterans' Affairs issues.

Mr. FILNER. Do not forget Mr. Lynch here.

Mr. MANHAN. I apologize I did forget Mr. Lynch.

Thank you. With that, Mr. Chairman, I will address the bill, H.R. 3423.

The VFW has already submitted our written testimony, which shows that we support the bill very enthusiastically. We support extending the burial entitlement in Arlington National Cemetery to Reservists today as prescribed in the bill because we feel it is both proper and equitable.

Active duty component members who retire for longevity today are entitled to be interred in Arlington National Cemetery, to include their authorized dependents. That is also true today of all active duty military personnel who unfortunately die or are killed in a training status.

Therefore, we have no reason not to extend this entitlement today to the Reserve component who are presently making up a

greater portion or a greater slice of our Active Duty Force. And we expect them to continue to make a bigger and bigger contribution to the Armed Forces as we go into the 21st century simply because, the Active Duty Force, is much more complex today than it was when I was on active duty is certainly much more sophisticated than when the "greatest generation" served, as Dr. Snyder addressed those who fought in World War II.

Having said that, we share the concern that Superintendent Metzler presented regarding space in Arlington National Cemetery.

We note that this bill states that the effective date for burial of certain Reservists in Arlington National Cemetery will begin on the effective date of H.R. 3423 becoming law. This leads to the closing point in the VFW testimony, which is the complex, sometimes misunderstood waiver procedure that we have today for interments in Arlington National Cemetery.

The catalyst perhaps for H.R. 3423 was the very tragic death of Captain Burlingame, United States Navy Retired Reservist. It was this committee in the previous 106th Congress, under Chairman Stump and Mr. Smith, who enacted and had passed in the House of Representatives in 1999, H.R. 70. This was, in the VFW's judgment an excellent bill, to codify interments in Arlington National Cemetery.

The VFW would like to see this committee, sometime in the second session of this Congress, take up this very important issue of who may and who may not be interred in Arlington National Cemetery.

Thank you Mr. Chairman, and members of the committee. This concludes my testimony, and of course, I will answer any questions later.

[The prepared statement of Mr. Manhan appears on p. 48.]

The CHAIRMAN. Thank you very much, and we will look at that very seriously. And, as you recall, we got locked into a House-Senate conference committee that unfortunately fell apart at the last minute. But hopefully we can revisit that going into next year, and I am sure that Chairman Rockefeller is very keen on doing that as well. I know that he is.

So thank you for that recommendation.

I would like to ask Mr. Garrett if he would present his testimony.

STATEMENT OF STEVEN GARRETT

Mr. GARRETT. Good morning. The Retired Enlisted Association would like to thank the chairman and distinguished members of the House Veterans' Affairs Committee for the opportunity to discuss burial at Arlington National Cemetery.TREA has over 110,000 members and auxiliary, representing all branches of the Armed Services, including retired, active duty and Reserve.

Regarding H.R. 3423, TREA strongly endorses Chairman Smith's legislation to create equity for Guard and Reservists burial eligibility at Arlington National Cemetery. TREA has long supported the idea of a total force, including equal benefits for all who serve regardless of their component.

H.R. 3423 would eliminate the age requirement for retired Guard and Reservists who would otherwise be eligible for burial at Arling-

ton, as well as eliminating active duty status required for those Guard and Reservists who die while in the line of duty while training.

Current gray area retirees, those Guard and Reserves who retired but have yet to reach age 60, as well as the current Guard and Reserve members who died during training periods, are ineligible for Arlington National Cemetery, while their active duty counterparts satisfy the requirements. Given that over 52,000 National Guard and Reserve service members are currently answering their Nation's call to serve on active duty for both homeland defense as well as peacekeeping operations overseas, it seems most fitting to give the training the Guard and Reserve members perform the appreciation it so rightly deserves.

The duties of the Guard and Reserve, which include pilots, infantry, the elite special forces, military police and numerous other vital MOS roles, are ready and waiting for their number to be called. Personally, my First Sergeant told my unit it is not a matter of if, but when, and be packed and ready to go for likely active duty.

My country can rest assured that we are ready. The duties required of the Guard and Reserve have increased in value over the years, and will likely continue to increase as the active duty requires more and more support.

Briefly, in regards to the rules of interments at Arlington National, TREA continues to support the codification of all rules governing access to Arlington National Cemetery. The recent situation regarding Captain Burlingame, the pilot of Flight 77, which crashed into the Pentagon on September 11, confirms that the rules are not always well understood. The Retired Enlisted Association strongly recommends that this committee take up the issue of overall codification of the rules of Arlington National Cemetery at the earliest opportunity.

In conclusion, the Retired Enlisted Association appreciates the dedication of this committee. We strongly support H.R. 3423, and press for its passage. I thank you for your time and this opportunity to present testimony on behalf of our membership.

[The prepared statement of Mr. Garrett appears on p. 50.]

The CHAIRMAN. Mr. Garrett, thank you very much for your testimony. Let me say to all of you that are here, we deeply appreciate on such short notice that you were able to be here and provide your testimony.

I would like to have added to the record—I am going to ask unanimous consent—a number of letters that we received from some of the other associations like the DAV and others who support the legislation but couldn't be here.

But again I wanted to thank you for making the effort to be physically present.

(See pp. 68 and 69.)

The CHAIRMAN. Mr. Schneider.

STATEMENT OF RICHARD C. SCHNEIDER

Mr. SCHNEIDER. Thank you. Mr. Chairman, it is a pleasure to be here, and distinguished members of the committee, and I also want to greet the new people and to say the NCOA, the Non-Commis-

sioned Officers Association, looks forward to working with you during your tenure on this committee.

You called the meeting for the right purpose, very much, to look at legislation concerning Arlington National Cemetery. We are deeply concerned about the need to take care of the retired Reservists, which you eloquently identified in the proposed bill.

It is a national shame that a Reservist who gives of his life, a patriotic fervor that is unmatched even in the active duty military, because these Reservist men and women carry on full-time jobs, and they go to drills, and to—I take exception with the word "summer camp." they go to learn their mission, to train, and to be able to execute a wartime mission required of the Armed Forces of the United States. When they are in these training programs, they deserve every bit of respect that an active duty Armed Forces person deserves, and we support their inclusion in this legislation as well as the gray-haired Reservists.

We heard today Mr. Metzler, and I have great respect for Jack Metzler and the work that he does as Superintendent at Arlington. I regret the Secretary of the Army, who is the executive agent, or one of his Under Secretaries were not here to hear the questions that you asked. I regret that.

I wish that a question would have been asked of Mr. Metzler, and that question was: Of the people, Reservists that are over 60 years of age, how many of them that apply are buried annually at Arlington National Cemetery? This number, 188,000, as you clearly identified, is pie in the sky. And it has nothing to do with the reality of what business will be brought to Arlington by way of respect and honor of people who served in their military Reserve components.

I would like to address Reserve component burials and the issue of space limitations. This Nation will never allow Arlington to run out of space, because we veteran organizations are going to come pounding on your door. We are going to demand the space.

But you know we are in the 21st century and perhaps it is time that we started looking at some new ventures from Arlington National Cemetery. We have the columbarium. If you look at them, they are magnificent layouts of the facility. They take up a footprint in the ground.

Maybe in the 21st century we need to look at architecture at Arlington National Cemetery that blends with the ground, that has the dignity that should be afforded at Arlington, but goes up vertically, and doesn't take the ground space that would otherwise be used for casketed remains.

It is also conceivable in this industry we may be looking at mausoleums, where we will put casketed remains above ground.

And maybe, maybe we need an advisory group, a blue ribbon panel, a white ribbon, a gold ribbon, whatever the hell it takes—excuse me. Maybe we need a panel to look at some of those issues into the 21st century and to make some of these new recommendations for consideration. And you now, as I think about all of the Reservists out there who have retired, I must tell you, they are all veterans, and this committee rightfully needs to speak on their behalf for interment at national cemeteries and at Arlington National Cemetery.

And, you know, at some point maybe in the 21st century the role of Arlington Cemetery under the Secretary of the Army needs to be defined, and I would leave that for a commission to raise, that issue and judgment.

But you asked the right question, and we are proud that you did. We are really, really embarrassed for a Navy Captain who was denied the opportunity to be buried at Arlington, to be denied after he was an academy graduate, a trained pilot, a wartime veteran, and he was denied because of age a casketed interment in Arlington, and to be offered—to add insult to injury, to be offered to be buried in his father's grave, a Chief Master Sergeant. There is nothing disrespectful about a Chief Master Sergeant being buried at Arlington, but a Navy Captain with that kind of a track record deserves and warrants a grave of his own and should be afforded the dignity and honor that this Nation would have him afforded.

I am glad that they finally waived the criteria and put him in. By God, what the hell did it take, a brain surgeon to figure that one out? They should have done it immediately. I do not know what our leadership was thinking about.

And that brings us to codification of the rules. And we need to do it. And we ask, Mr. Chairman, that you take the lead on that as this committee has done in the past, and we will be here to support you.

Thank you.

[The prepared statement of Mr. Schneider appears on p. 53.]

The CHAIRMAN. Thank you very much, Mr. Schneider, and we will. That will be one of the first orders of business going forward next year, and I do thank you for your strong words and very persuasive words today at this hearing.

Mr. Norton.

STATEMENT OF BOB NORTON

Mr. NORTON. Thank you, Mr. Chairman.

Thank you, Mr. Chairman, the Ranking Member and the distinguished members of the committee, for the opportunity to represent the Retired Officers Association at this hearing.

If I may digress just for one moment, Mr. Chairman, I would like to express the deep appreciation of TROA in regard to the great work that you, the Ranking Member and the other distinguished members of the committee have done this year for the uniformed services community and for veterans at large.

I would especially note last night's passage of H.R. 1291, kind of a capstone legislation for all of the great work that this committee has done. And I would just add, too, that with our total force of active duty, Reserve and Guard deployed at home and abroad performing counterterrorism missions today, this committee's work is even more important than ever, and we deeply appreciate the work that you have done on behalf of these volunteer patriots.

Mr. Chairman, we support passage of H.R. 3423. As my colleagues have indicated, implicit in this legislation is the need to codify all of the rules.

As you well know from the 106th Congress, H.R. 70 provided a reasonable framework to do that. [That bill] was passed by near unanimous vote. The previous version in fact in 1998 was unani-

mously passed by the House. And we strongly recommend that the committee continue to go forward, not just enacting into law this particular provision regarding gray area Reservists, which was in H.R. 70, but the entire codification framework.

There is no perfectly equitable framework for burial at Arlington National Cemetery, but I would just offer as one example, I think all of the members of the committee recall, the National Guard plane that went down just a couple of months ago. Aboard that plane were active duty pilots, Guardsmen who had been called to active duty, some were in active duty for training status, some were in inactive duty training status.

To us, and to most veterans organizations, those distinctions are artificial. The issue is duty. It is military duty. It is being on orders to perform duty.

When that plane went down, those Guardsmen who were for technical reasons only on inactive duty, would have been ineligible to be buried at Arlington National Cemetery. Your legislation, H.R. 3423, remedies that situation, and we fully support it, and we strongly urge the committee to move forward and codify all of the rules concerning burial at Arlington National Cemetery.

Thank you very much.

[The prepared statement of Mr. Norton appears on p. 58.]

The CHAIRMAN. Mr. Norton, thank you, too, for your very strong words, and we appreciate the insight as well as all of you admonishing us to take up the eligibility issue in a more general sense. Hopefully we get this done very quickly. We are not sure if the Senate will act, and then we will immediately move next year on the remainder of the codification.

Mr. Eddington.

STATEMENT OF PATRICK EDDINGTON

Mr. EDDINGTON. Good morning, Mr. Chairman, Ranking Member Evans, members of the committee. Thank you very much for inviting the Vietnam Veterans of America to testify today. I bring you holiday greetings on behalf of our National President, and I just want to take a very quick moment to thank the members of the committee and the staff, not just of this committee, but everybody who has been working up here on the Hill during the course of the events that have taken place during the last 3 months.

You all have had to face some special risks that many of us have not. It has been very disruptive for you professionally and personally, and we are very, very grateful for you continuing to try to do the people's business in the midst of this chaos that we have all been dealing with. So our hats are off to you, and we thank you very much.

We are delighted to be able to support this legislation fully. I wanted to associate myself completely with the comments that have been made by my colleagues. I would just like to pick up on a couple of items that were mentioned by some of the members of the committee, to include Mr. Snyder and some of the rest of you.

I do not think there is any question that we have to reevaluate the codification issue, and I would urge you, as my colleagues have, to go ahead as early as possible in the next session. It is an issue that needs to be addressed relatively quickly in my view, but I also

want to address this issue, the issue of space. I do believe that, with all due respect to Superintendent Metzler, that was largely a red herring. I think it has been made very clear that space is available, this can be accomplished. This legislation will not significantly impact the space issue at Arlington.

However, we are going to be looking at that issue another 20 or 25 years down the road. We are very relieved to hear you saying, Mr. Chairman, that you are fully supportive of trying to buy additional land or acquire additional land to take care of the problem. So we hope that that same process will be used across the country as the base realignment and closure process goes forward. Our view is that every facility where we are looking to try to shut down a base that is no longer needed for our national security program, that we look at least at a portion of that property to become a national cemetery. So we would urge you to take a look at that.

Again, we support this legislation. We are happy to be here, and we thank you very much.

[The prepared statement of Mr. Eddington appears on p. 62.]

The CHAIRMAN. Thank you very much, Mr. Eddington, for your comments. And you know previous BRACs we have also looked at, and even our homeless legislation, and the encouragement that we have given to the VA. I mean rather than just selling those parcels of land and getting back some money for the Treasury, we are looking for VA purposes and certainly more cemetery space is a very real and vital concern as are things like more space to house homeless veterans.

So thank you for your strong support as well. I just have a couple of very brief questions.

As you know, H.R. 3423 would provide burial eligibility for members of the Reserve who die in the line of duty for both active duty for training and inactive duty training.

Do you believe we should draw a line and not provide eligibility for those who die in the line of duty on inactive duty training? I know that there is at least one member of our committee who may perhaps offer an amendment in that regard later on today.

Mr. EDDINGTON. Well, I will tell you, sir, that as a Reservist, someone who served for 11 years in the Guard and Reserve, I have concerns about making some of the kinds of distinctions that I have heard here today. I think my colleague Bob Norton really summed it up very nicely. It is the concept of duty, and I think every single one of us here would agree that when the Osama bin Laden murderers began to commandeer Flight 77, Captain Burlingame went on active duty. He was there to defend his passengers. He was there defending his country. He was doing his duty.

And so I do not believe, the VFW does not believe, and I do not believe that my colleagues who have spoken to this, that those kind of distinctions should necessarily be made.

The CHAIRMAN. Is that shared by the panel?

Mr. MANHAN. That is the VFW position. I may have said it slightly differently, but our 2.7 million members believe that a Reservist in an inactive duty training status should be considered the same as an active duty person who is injured or killed in the line of duty.

We do support those Reservists who die while in an inactive training status for interment in Arlington National Cemetery. It is very equitable, it is fair to what we presently have for the Active Duty Force.

Mr. SCHNEIDER. The Non-Commissioned Officers would say it is inclusive for all.

Mr. GARRETT. I guess that I would point out for TREA that it is my inactive duty training that qualifies me to be called up for active duty service. When I crawl through the dirt, when I sleep outside on inactive duty training during the weekend, it is that that qualifies me to be called if I am needed.

The CHAIRMAN. Thank you so much. I have other questions, but because we have a vote and in deference to the other committee members, I would like to yield at this point to Mr. Evans.

Mr. EVANS. Thank you.

The CHAIRMAN. Chairman Simpson.

Mr. SIMPSON. I want to thank you all for your testimony here today, and Mr. Eddington, the last thing I wanted to have was holiday greetings. I wanted to be home a long time ago. But I do appreciate that, and I truly do appreciate all of your testimony, and you keep on us to make sure that we get the space available for expansion of Arlington, because I think it is the thing that we have to do. And you can't wait until the year 2025 and say, "We are out of space." We need to start looking now down the road and make sure.

So I appreciate it. Thank you.

The CHAIRMAN. Dr. Snyder.

Mr. SNYDER. Thank you, Mr. Chairman.

I just wanted to clarify one point. Would my colleague from Arkansas give us the correct pronunciation of your last name?

Mr. BOOZMAN. Boze-man.

Mr. SNYDER. Now I have served with his brother in the State Senate, and I know serving with Mr. Boozman, that booze is not related to one of their lives. It is Boze-man.

Mr. BOOZMAN. I have learned to answer to anything.

Mr. SNYDER. I appreciate you all being here today on such short notice. And let me say, first of all, I agree completely with the first part of this, that the age 60 versus 52 makes no sense at all. The person's military career has been completed and that has qualified that person. To say, well, we are going to wait until you have a birthday doesn't make any sense. It is the second part of that, as have you heard me discuss before, I think, Mr. Schneider, you very passionately talked about they are all veterans.

Well, as you know, all veterans do not qualify for burial at Arlington. I think that is the issue we are getting at. For example, if a veteran who has served overseas gets the combat distinguishing device, that person is not eligible for burial in Arlington. Even though they may have spent 3 or 4 years throughout World War II or 2 or 3 years throughout Korea or multiple tours in Vietnam and seen combat, but did not get a Silver Star or were wounded, they are not eligible.

So this creates, in my mind, going back to my employee today who says that I do not think that I should be eligible just because I have gone out there for my weekend training. So someone said,

we can't draw a line. We do draw lines. We have to draw lines. Otherwise we just say anyone with any military service should be eligible for Arlington. Maybe that is what we want to say.

But I do not think that is what we want to say. So we are trying to talk about where we draw the lines. It is interesting to me, I have—I think Mr. Filner and I are the two people who keep you from saying that H.R. 70 passed unanimously because we voted against it. The reason we did is because it did not have a waiver policy. It would have taken away all waiver policy. The issue there is we thought the situation for the—currently, as we learned when Mr. Spann, if it had not been for a waiver policy, he would have not been eligible for Arlington.

But it is interesting to me that H.R. 70, which was an effort by VSOs and veterans groups and the committee to deal with this issue of codification, did not include this second provision in there about people on inactive duty training status.

Well, there was a lot of time, literally years, put in on that. So I have concerns that we are adding that on here on fairly short notice. I mean acknowledging we have called those people on fairly short notice, and perhaps one way to handle this today is that will you go ahead with the bill. But one way you deal with our career versus Reserves and acknowledging that you have said that you are going to come back first thing in the year to deal with codification, maybe that would be the time to look at this inactive duty training status, when we have got more time to look at the equities of it.

I think that we will hear from VFW members who have served overseas and served in combat but did not get wounded, and that is the provision that I have concerns about. I mean, I wish we could take everybody, but obviously it is going to be difficult.

I guess I do not have any specific questions other than you all do acknowledge that if a person is deployed who is in the Guard and Reserve forces that they do qualify. We are all in agreement. Thank you.

The CHAIRMAN. Dr. Boozman.

Mr. BOOZMAN. I guess the only thing I would ask—I appreciated your testimony. I know where you all are at. I would ask the panel, does this reflect the vast majority of the organization that you represent? Is your testimony—is this a contentious thing at all? I mean, is it 90 percent or 51, 49 percent?

Mr. MANHAN. I will respond to you first, Mr. Boozman. On behalf of the VFW, when I testify here I speak for our membership, which is about 2.7 million members. My testimony is cleared before I present it by my national headquarters, sir. So I am speaking for the entire organization.

Mr. BOOZMAN. I guess my question was, of the 2.7, is it 1.5 versus whatever the math is, or is it 2.6 versus the math? How many of those 2.7 agree with you?

Mr. MANHAN. I would like to say in an ideal world, sir, 2,700,000, but that isn't so. Dr. Snyder is right. If this bill becomes law, someone will object. Possibly a VFW member.

Mr. BOOZMAN. Are we going to hear from 2 million?

Mr. MANHAN. I would like to think one or two, but we do not know, sir.

Mr. NORTON. Sir, we haven't had an opportunity to survey our membership given the short turnaround on the legislation and the invitation to testify. But I would just point out in general terms that we support this legislation. We have long supported the codification of all of the rules, and we urge the panel to take up the broader issue of codification for burial at Arlington Cemetery.

Mr. EDDINGTON. Mr. Boozman, I work for Vietnam Veterans. My brother is a Vietnam veteran. I cannot recall a time in my life when I have seen two or more Vietnam veterans in the room who could agree on any number of issues, but I think on this one most of our membership would be very supportive and very confident of that.

Mr. SCHNEIDER. I would also concur with that, that I believe our membership—there will be some diversity, but I think the diversity will understand. I would just like to comment, Mr. Snyder, I appreciate your view, and I appreciate your perspective, and I appreciate that you are wrestling with this subject. We are going to help you with your wrestling, I hope.

Thank you.

The CHAIRMAN. Does the gentleman yield? I thought Mr. Garrett a moment ago had a very important point, that his inactive training prepares him for the active. If we are talking about someone who dies doing that kind of service for our country, the whole nomenclature of inactive I think is a very poor way to describe it. It is not inactive, it just happens to be the way it is defined in law or regulation. But frankly, it is a very foolish way to describe it, because it is active. It is a distinction without a difference.

Mr. NORTON. Mr. Chairman, I absolutely agree with you. Those categories were largely set out to distinguish various levels of compensation as well as indirect benefits like housing and so forth.

To us, again, the concept is duty, and if death occurs while in military service, then those should be the two defining characteristics, and we think that the great generation of World War II, those who survived like my dad who is a life member of my organization, would understand and recognize that he was fortunate enough to live a full life. Had he been killed during the war he would have been eligible for burial at Arlington.

I would suggest, for example, if a Guardsman were doing checkpoint work at the Holland Tunnel in New York City on inactive duty and, God forbid, a terrorist trying to wreak havoc killed that Guardsman, under today's provision that Guardsman would not be eligible.

The world has changed. It is different. Military duty is military duty. We are defending ourselves at home and abroad.

Thank you, Mr. Chairman.

Mr. SCHNEIDER. I would like to add one more point. Every death that occurs on active duty, whether in the Guard and Reserve or whether it is in the Armed Forces, every death that occurs either in the line of duty or not in the line of duty, and whether or not willful misconduct is involved, is—not every death qualifies for VA benefits. Not every death would qualify for interment in the National Cemetery.

The CHAIRMAN. Thank you. You have given valuable testimony and insight. And our markup is at 2 o'clock. Hopefully we will have this bill ready to go.

We do have a vote. It is about 3 minutes. So again, I want to thank you so much for your testimony. The hearing is adjourned.

[Whereupon, at 11:40 a.m., the committee was adjourned.]

APPENDIX

I

107TH CONGRESS
1ST SESSION

H. R. 3423

To amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2001

Mr. SMITH of New Jersey (for himself, Mr. BILIRAKIS, Mr. BUYER, Mr. SIMPSON, Mr. BAKER, Mr. SIMMONS, Mr. WOLF, and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ELIGIBILITY OF CERTAIN PERSONS FOR BUR-**
4 **IAL IN ARLINGTON NATIONAL CEMETERY.**

5 (a) IN GENERAL.—(1) Chapter 24 of title 38, United
6 States Code, is amended by adding at the end the fol-
7 lowing new section:

1 **"§ 2412. Arlington National Cemetery: eligibility of**
2 **certain persons for burial**

3 "(a)(1) The remains of a member or former member
4 of a reserve component of the Armed Forces who at the
5 time of death was under 60 years of age and who, but
6 for age, would have been eligible at the time of death for
7 retired pay under chapter 1223 of title 10 may be buried
8 in Arlington National Cemetery on the same basis as the
9 remains of members of the Armed Forces entitled to re-
10 tired pay under that chapter.

11 "(2) The remains of the dependents of a member
12 whose remains are permitted under paragraph (1) to be
13 buried in Arlington National Cemetery may be buried in
14 that cemetery on the same basis as dependents of mem-
15 bers of the Armed Forces entitled to retired pay under
16 such chapter 1223.

17 "(b)(1) The remains of a member of a reserve compo-
18 nent of the Armed Forces who dies in the line of duty
19 while on active duty for training or inactive duty training
20 may be buried in Arlington National Cemetery on the
21 same basis as the remains of a member of the Armed
22 Forces who dies while on active duty.

23 "(2) The remains of the dependents of a member
24 whose remains are permitted under paragraph (1) to be
25 buried in Arlington National Cemetery may be buried in

1 that cemetery on the same basis as dependents of mem-
2 bers on active duty.".

3 (2) The table of sections at the beginning of chapter
4 24 of title 38, United States Code, is amended by adding
5 at the end the following new item:

"2412. Arlington National Cemetery: eligibility of certain persons for burial.".

6 (b) EFFECTIVE DATE.—Section 2412 of title 38,
7 United States Code, as added by subsection (a), shall
8 apply with respect to interments occurring on or after the
9 date of the enactment of this Act.

○

STATEMENT
HONORABLE CHRIS SMITH
FULL COMMITTEE HEARING -- H.R. 3423
DECEMBER 13, 2001

Good morning. We are meeting to take testimony on H.R. 3423, to update eligibility rules for burial of reservists at Arlington National Cemetery.

However, before we begin, I would like to welcome several new Members to the Committee from both sides of the aisle – Jeff Miller from Florida, John Boozman (pronounced BOZE Man), from Arkansas, Stephen Lynch from Massachusetts and Susan Davis from California. (Mr. Evans will introduce them after you speak about our Members.)

The Committee granted Mr. Miller's request for assignment to the Subcommittees on Health and Benefits of the House Committee on Veterans' Affairs.

Mr. Miller is a native Floridian who was elected to the Florida legislature in 1998. Prior to that, he was a real estate broker and deputy sheriff. He and his wife are active members of Elizabeth Chapel United Methodist Church in Chumuckla

(pronounced Sha MUCK La). They have two children and two grandchildren.

The Committee granted Mr. Boozman's (pronounced BOZE Man) request for assignment to the Subcommittees on Health and Oversight of the House Committee on Veterans' Affairs.

Mr. Boozman is an optometrist from Arkansas who took the seat formerly held by Rep. Asa Hutchinson, and before that by Asa's brother, Tim. He and his wife Cathy are the parents of three daughters. John and his family are actively involved at the 1st Baptist Church in Rogers. He also raises Polled Hereford cattle. John's background includes playing football at the University of Arkansas, and since J.D. Hayworth is no longer with us, it's good to have someone who knows how to block legally on a long march downfield.

This measure would revise existing law by eliminating the requirement that retired reservists be in receipt of their retirement pay to be eligible for in-ground burial at Arlington. Reservists must be 60 years old to receive pay. Retirees in this situation of but not 60 are often referred to as being in the "Grey Zone". The

bill also would make eligible for in-ground burial reservists who die in the line of duty during inactive or active training.

This bill would ensure access for Retired Reservists, such as Captain Charles Burlingame, III, the Pilot of flight 77, which tragically crashed into the Pentagon on September 11. Indeed, Captain Burlingame, a former Navy F-4 Phantom Pilot, was one of the first casualties of the war on terrorism.

The bill would change the Army rule which prevented Captain Burlingame, a retired reservist who was 51, from receiving full burial rights at Arlington National Cemetery. Fortunately, Captain Burlingame was eventually approved for burial in his own gravesite through a waiver approved by the Secretary of the Army.

Captain Burlingame deserves the Nation's highest honor of burial at the hallowed ground of Arlington, NOT ONLY because he gave his life trying to save his passengers, but because Captain Burlingame served our Nation in the Naval Reserve for over 20 years as a combat aircraft pilot.

Burial space is very limited at Arlington and I appreciate the Army's interest in maintaining its strict eligibility rules. Those

rules have remained pretty much the same over the last 34 years. But the roles of our Reserve Forces have changed markedly over the intervening period.

First, Reservists play a major role in the modern total force concept that protects our freedoms. Today we are unable to go to war without mobilizing reservists right from the start. It just seems inequitable that Reservist who serves our nation for a minimum of 20 years should be ineligible for in-ground burial at Arlington, because he or she had the misfortune to die prior to age 60.

In addition to such distinguished retirees as Captain Burlingame, this legislation would make eligible, members of the Reserve Component who die in the line of duty while performing weekend or two-week reserve duty. Frankly, I see no reason why a Reservist's eligibility for Arlington should be based on whether that person was – or was not – in training status when he or she died in the line of duty. In today's military, there is often no practical difference.

The Administration will testify that this legislation will make 188,000 reservists eligible for burial at Arlington. This is a

distortion and should not be accepted at face value. In fact, all of these reservists are already eligible for burial at Arlington if they live to age 60. Although the Congress does not know how many retired reservists die before reaching the age of 60, that information is available in Defense Department records. The number is probably no more than three to five thousand annually.

It should also be borne in mind that of the tens of thousands of retirees who die each year with Arlington eligibility, only a small fraction actually choose to be buried there. Applying a similar fraction to those reservists who die before reaching age 60 would be an accurate portrayal of the effect of this legislation. We are talking about a few hundred burials a year if this legislation were to become law.

Moreover, the Army's statement refers to a projection that Arlington will be out of space by 2025. However, legislation approved last year will transfer significant land from the Navy Annex to Arlington by 2010, adding 25 years to the date projected in the Army's testimony. These are important facts that should have been included in the Army's testimony.

In closing, let me say that our United States Army sees to it that Arlington National Cemetery indeed is a National Treasure. But the Army does not write the law on Arlington eligibility. We do, right here in this Committee and in Congress. We are here today for purpose and I look forward to the testimony of our witness.

I now yield to the Ranking Member, Lane Evans, for any opening remarks he wishes to make.

Statement of Honorable Lane Evans
Ranking Democratic Member
Full Committee Hearing on H.R. 3423

December 13, 2001

Thank you, Mr. Chairman.

I commend and thank the Chairman of the Committee, for his leadership on this issue and his successful efforts to work with Members on both sides of the aisle to so quickly bring this measure before us today. I also extend thanks to the Chairman of the Benefits Subcommittee, Mike Simpson, and the Ranking Member, Silvestre Reyes, for their outstanding efforts during what has been a demanding legislative year.

As a former Marine and as a member of the Veterans Affairs Committee since 1983, I know very well that Arlington National Cemetery is a cherished parcel of this Nation's most hallowed ground. I am confident every Member of this Committee will be steadfast in their commitment to honor and revere Arlington National Cemetery on behalf of the brave men and women of America's military and our veterans.

Recent events have highlighted for us that America's veterans continue to exemplify the bravery, courage and conviction that are pillars beneath America's freedom and success through history. Our veterans remain our heroes. I am pleased that today's hearing will examine the current eligibility for burials at Arlington National Cemetery.

As introduced, H.R. 3423 would amend the burial rules for Arlington Cemetery. It would eliminate the current requirement to be 60 years of age for reservists who are eligible for retirement pay and otherwise eligible for in-ground burial. H.R. 3423 would also provide for in-ground burial eligibility for members of the reserve components who die in the line of duty while participating in weekend training or a two-week training period.

When considering the rules that govern eligibility for in-ground burial at Arlington Cemetery, we are immediately faced with conflicting needs. On the one hand, we must do our best to preserve Arlington Cemetery's limited space for those men and women whose level of commitment and heroism to the Nation has been

truly extraordinary. On the other hand, we want to make a hero's burial available, to the fullest and most uniformly fair extent possible, to all our heroes who are so deserving of this honor.

Thus, I turn to our witnesses. I hope the data they can provide to us today will help us as we determine how to address the standing rule that retired reservists must be at least 60 years old to qualify for burial at Arlington. Whether the rule should remain intact or whether we should reform the rule in some way is a question that requires our careful thought and consideration.

Having said this, I am anxious to hear from our witnesses who have been kind enough to join us today on such short notice. I know that isn't always easy and I appreciate their efforts to help us make the most informed decisions possible on this highly important issue.

STATEMENT OF CONGRESSMAN SILVESTRE REYES
RANKING MEMBER, SUBCOMMITTEE ON BENEFITS
HEARING ON H.R. 3423

Thank you, Mr. Chairman, and good morning.

I want to thank Chairman Smith for his leadership on this important issue. I also want to thank our Ranking Member, Lane Evans, for all his hard work. As the Ranking Member on the Benefits Subcommittee, I truly appreciate the good work we have managed to finish before the end of the year. The bills that we have been able to pass this year will help many veterans and their families.

Since the end of the Civil War, the United States has maintained Arlington National Cemetery as a final resting place for our military heroes. Responsibility for watching over America's most hallowed ground has been vested in every Secretary of War and Secretary of the Army.

Today's hearing underscores the concerns of the Committee on Veterans Affairs over the rules that govern eligibility for burials at Arlington. As a Vietnam veteran, I feel strongly that we must forever strive to ensure that the rules continue to reflect the sacred nature of the cemetery. I am filled with a sense of honor as we proceed in that spirit and discuss the bill before us today. Our Nation, its servicemembers, and its veterans deserve no less than our fullest commitment to this important issue.

In the context of in-ground burials at Arlington, we are considering legislation today that would eliminate the age requirement for members of the guard and reserve components who are eligible for retirement pay. In addition, the legislation would also extend eligibility to those members of the guard and reserve components who die in the line of duty while they are engaged in training.

In an effort to prolong the active life of Arlington National Cemetery, the highly restrictive eligibility criteria for burial there have been in effect since 1967. As we examine the possibility of changing these longstanding rules, I appreciate the insights and guidance that are provided today by our witnesses. I am anxious to hear what you have to say on these matters before us.

Thank you again, Mr. Chairman.

OPENING STATEMENT OF
LUIS V. GUTIERREZ
COMMITTEE ON VETERANS' AFFAIRS
Full Committee Hearing on H.R. 3423
"Revising Burial Restrictions at Arlington National Cemetery"
THURSDAY, DECEMBER 13, 2001 10AM

Mr. Chairman, I am pleased that we are holding this hearing to consider how to appropriately honor deceased retired reservists who so admirably served our country in the Armed Services . It is likewise very important to thoughtfully consider any changes to be made in the eligibility criteria regarding who gets laid to rest at Arlington National Cemetery, given that there is a finite amount of space in one of this nation's most sacred burial places.

Yesterday, the memorial service for **Charles F. Burlingame III**, a 51 year-old retired reservist, was held at Arlington National Cemetery. Mr. Burlingame was the pilot of American Airlines Flight 77 that terrorists crashed into the Pentagon on September 11. There is also evidence that Mr. Burlingame was killed before the crash by the terrorists in an heroic effort to save lives. I was pleased that Army Secretary Thomas White ultimately waived the age limitation usually applied to retired reservists under age sixty so that **Mrs.** Burlingame could put her husband to rest with a ceremony and burial place befitting a real hero.

As Americans, we are proud of the service rendered this country by both active duty and reserve military officers. It is of utmost importance to me, as I am sure it is to others on this Committee, that we ensure that all military servicemen and women are appropriately honored at their death. After all, what better way is there to honor their **lives**, given in service to defend this nation and its people? I thank the panelists for coming today and I look forward to today's testimony.

PREPARED STATEMENT OF CONGRESSWOMAN CARSON

Arlington National Cemetery has been a reminder of our country's sacrifice for 137 years. Over 260 thousand persons are buried at Arlington, including more than three thousand eight hundred former slaves, as well as this country's most recent heroes, Staff Sergeant Brian Cody Prosser and former Marine captain Mike Spann, who fell in the line of duty fighting the war against terrorism in Afghanistan. Captain Burlingame, a former Navy pilot and reservist, fell to the actions of aggressors to this nation—some people question if he belongs in Arlington. This bill will rectify the issues encountered by his loving family in trying to honor a hero of September 11.

Reservists are full partners in today's Total Military Force, yet they are sometimes forced to march in the shadow of their active duty brothers and sisters. They are far more than "weekend warriors." Their sacrifice to families, jobs, and the country must be recognized in a meaningful way. The ghosts of Arlington will welcome this Reservist as rightful members of their hallowed ground.

HR 3423 will allow Reservists a final honor in recognition of their sacrifices, no matter what their age. They too, put on their country's uniform and served. Arlington National Cemetery may claim no room, but there should always be room for those who wore this country's uniform.

Thank you, and I yield back.

PREPARED STATEMENT OF CONGRESSMAN MCKEON

Thank you, Mr. Chairman, for bringing this much needed legislation to the forefront. With the current crisis in America, we rely on our Reservists now more than ever. While we sit here and exercise the freedoms this great country was founded on, our Reservists are overseas protecting those freedoms and providing safety, and it is very easy to take that for granted because we do not see it on a daily basis. The least we could do is thank them by honoring them with burial rights at Arlington National Cemetery. I look forward to hearing the testimony today, and getting this legislation passed by Congress. Thank you, Mr. Chairman.

PREPARED STATEMENT OF CONGRESSMAN UDALL

Chairman Smith and Mr. Evans:

Good morning, it is a great honor and pleasure to be here today. Thank you for holding this hearing on H.R. 3423. I am looking forward to hearing the testimony of the distinguished witnesses on our panel.

I would like to applaud the efforts of Chairman Smith and the cosponsors of H.R. 3423 to grant full burial rights at Arlington to those who die as a result of enemy action, but who did not meet the current age and time in service eligibility requirements of existing law. We are all familiar with the recent events surrounding Captain Charles Burlingame and his family's attempts to have the Captain buried at Arlington and I hope this hearing gives us a better perspective on how best to avoid similar situations in the future.

I would like to call attention, however, to a point raised in the written testimonies submitted by various members of the panel today: the limited burial space, not only in Arlington, but in national cemeteries all across the country.

In the district that I represent, Santa Fe National Cemetery is currently predicted to run out of burial space by the year 2008. Numerous veterans from all over the state have been consistently contacting my office to express their desire for this shortage to be addressed.

I am thankful that the VA/HUD appropriations bill that was recently signed into law by the President included funds for planning for a National Cemetery in the Albuquerque, New Mexico area, but I would like to raise this issue today before the Committee.

I am hopeful that in the very near future this Committee will look to address the possible burial shortage not only in my district, but all across the country. The men and women who have sacrificed so much in defense of liberty and freedom deserve a burial befitting the dedication of their service.

Mr. Chairman, thank you for allowing me to offer my remarks and thank you to the members of the panel for being here on such short notice.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

JOHN C. METZLER

SUPERINTENDENT

ARLINGTON NATIONAL CEMETERY

BEFORE

THE COMMITTEE ON VETERANS AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

ON

PROPOSED CHANGES IN BURIAL ELIGIBILITY

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE:

INTRODUCTION

I appreciate the opportunity to appear before this committee to discuss proposed legislation regarding eligibility criteria for burial at Arlington National Cemetery. The Secretary of the Army is responsible for burial policy at Arlington National Cemetery. I am here to provide the Army's comments on the proposed legislation and answer any questions you may have.

Arlington National Cemetery is America's most prominent National Cemetery and serves as a shrine honoring the men and women who have served in the Armed Forces. It is a visible reflection of America's appreciation for those individuals whose acts and accomplishments reflect the highest service to the country.

FUNERALS

In Fiscal Year 2001, there were 3,727 interments and 2,212 inurnments. In Fiscal Year 2002, we estimate there will be 3,800 interments and 2,500 inurnments. Looking ahead to Fiscal Year 2003, we estimate there will be 3,925 interments and 2,700 inurnments.

CEREMONIES AND VISITATION

Thousands of visitors visit Arlington National Cemetery to participate in ceremonial events and pay their respects to our fallen heroes. During Fiscal Year 2001, about 3,000 ceremonies were conducted at this treasured National Cemetery. The President of the United States attended ceremonies we conducted commemorating Veterans Day and Memorial Day.

PROPOSED LEGISLATION

As you know, the space that we have available in Arlington Cemetery is limited and has required the establishment of rules to regulate burial eligibility. The rules governing burial eligibility in Arlington National Cemetery are set forth in Title 32 of the Code of Federal Regulations. The Army, as the executive agent for the Cemetery, strives to implement these regulations fairly and consistent with the space limitations we face.

The Army is troubled with the proposed legislation contained in H.R. 3423, regarding the extension of burial privileges in Arlington National Cemetery to

certain current and former reserve component members of the Armed Forces and their dependents. The legislation expands eligibility for burial in Arlington National Cemetery beyond that which can be supported by current space constraints and will likely cause the denial of this privilege to other eligible persons.

Under current projections, the group of newly eligible reservists under the proposed legislation would exceed 188,000, not to mention their dependents, whose number I do not know. While the long-term effect of such an expansion is not now known, clearly the number of eligible veterans will be greatly expanded at a time when we are already projecting that Arlington National Cemetery will exhaust current space by 2025.

The Army leadership was aware that Senators Warner and Stevens had introduced legislation (Section 3135 of H. R. 3338) that narrowly tailors expansion of the eligibility criteria to authorize individual interment in Arlington National Cemetery for those retired members of the Armed Forces reserves, not otherwise eligible, who died in the September 11th terrorist attacks. The Secretary was also sensitive to the fact that any legislative proposal would likely not be enacted in time to accommodate a request for burial on December 12th as an exception to the burial policy. Thus, to honor the intent of the proposed legislation and to spare the family any further grief, the Secretary of the Army granted an exception to allow the burial of retired Naval Reserve Captain Charles F. Burlingame, III, in a separate grave in Arlington National Cemetery.

CONCLUSION

Mr. Chairman, this concludes my remarks. I will be pleased to respond to questions from the committee.

STATEMENT OF

BOB MANHAN, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

H.R. 3423—TO AMEND TITLE 38, UNITED STATES CODE, TO ENACT INTO LAW ELIGIBILITY OF CERTAIN VETERANS AND THEIR DEPENDENTS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

WASHINGTON, DC DECEMBER 13, 2001

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for inviting the Veterans of Foreign Wars of The United States (VFW) to participate in this hearing on this very important and timely bill. This proposed legislation, H.R. 3423, would allow those reserve component servicemembers who fall into a 'gray area', based on their age, as well as their eligible dependents to be buried in Arlington National Cemetery. On behalf of the 2.7 million VFW members, including our Ladies Auxiliary, I would like to express our strong support for this legislation. We believe that this bill is both the proper and equitable thing to do.

The current law is not fair to many of our retired military reservists. To be eligible for burial at Arlington National Cemetery, they must be receiving retirement pay. The majority of our military reservists retire before the age of 60, but are unable to begin drawing retirement pay until they actually reach age 60. This policy, in effect, excludes those who pass away before age 60 from burial at Arlington National Cemetery

The VFW believes that H.R. 3423 is the right thing to do because all other members of the Armed Services who retire for length of service are presently entitled to interment in Arlington National Cemetery. These military reserve component personnel are the only category excluded.

The VFW also believes that H.R. 3423 is equitable because some retired reserve component members pass away before receiving any retirement money. They should not also be denied space in Arlington National Cemetery. This is a burial requirement not faced by any other category of retiree because retirement money for active service members begins on the date they retire, regardless of age.

Today, most reasonable parties agree that reserve component members are a large percent of our total force structure and will be an even greater percentage in the future. Generally speaking, reserve component personnel bring a high degree of expertise in many technical areas required by our defense force in the 21st century. We can expect a greater percentage of these citizen soldiers to remain in the reserve component gaining greater proficiency over twenty or more years of affiliation. In light of these facts, the VFW believes that Congress should now codify Arlington National Cemetery's eligibility requirements into statutory law to allow the burial of reservists who have retired from their military component but die before they become eligible to receive reserve military retirement money.

Codifying Arlington National Cemetery's eligibility requirements would alleviate many potential problems in the future. This is our nation's most hallowed cemetery and the geographic limitations are very obvious. Today's burial policy contains waiver authorities that are not well known and are all too often misunderstood by the American public.

This concludes the VFW's testimony on H.R. 3423. I am prepared to answer any question you, Mr. Chairman, or any members of this committee may have. Thank You.

Testimony of The Retired Enlisted Association

Before the House Veterans' Affairs Committee

Presented by: Specialist (E-4) Steven L. Garrett, ARNG,

Deputy Legislative Director, The Retired Enlisted Association (TREA)

Date: December 13, 2001

DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Retired Enlisted Association does not currently receive, has not received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All of the Association's activities and services are accomplished completely free of any federal funding.

Biography of Steven L. Garrett

Deputy Legislative Director
The Retired Enlisted Association

Steven L. Garrett began his legislative career in January 1999 with the late U.S. Senator Paul D. Coverdell (R-GA). He served as the senator's staff assistant handling mailroom duties and legislative correspondent handling military affairs. As a legislative correspondent he researched and drafted responses to constituent mail regarding veteran and defense issues.

Mr. Garrett attended Young Harris College and later graduated from the University of Georgia with a Bachelor of Social Science Education concentrating in world history in 1999.

In late June 2000 he accepted the legislative assistant position with The Retired Enlisted Association where he assisted Mark Olanoff with legislative research and strategy. In

January 2001 he was promoted to Deputy Legislative Director where he serves as TREA's lobbyist. In this role he meets with congressional offices to advocate their support for the issues important to TREA members.

Mr. Garrett enlisted in the Virginia Army National Guard on May 16, 2001 and completed basic training and Advanced Infantry Training on November 9, 2001. He now serves as a Specialist(E-4) with A Company 3rd Battalion 116th Infantry Regiment in Manassas, Virginia.

He is married to Tracy Garrett, a deputy communications director, for U.S. Senator Bill Frist. They live in Alexandria, VA.

Introduction

The Retired Enlisted Association (TREA) would like to thank the chairman and distinguished members of the House Veterans' Affairs Committee for the opportunity to come before you to discuss burials at Arlington National Cemetery.

TREA has over 110,000 members and auxiliary representing all braches of the Uniformed Services, including retired, active duty, guard and reserve.

H.R. 3423

TREA strongly endorses Chairman Christopher Smith's (R-NJ-4) legislation to create equality for reservists' burial eligibility at Arlington National Cemetery (ANC). TREA has long supported the idea of a "total force" including equal benefits for all who serve, regardless of their component. H.R. 3423 would eliminate the age requirement for retired guard and reservists, who would other wise be eligible for burial at ANC, as well as the active duty status requirement for those guard and reservists who die in the line of duty while training.

Current "Gray area" retirees, those retired from the Guard or Reserve but are under the age of 60, as well as current guard and reserve service members who die while conducting their training periods are ineligible for burial at ANC, while their active duty counterparts satisfy the requirements. Given that over 52,000 National Guard and Reserve service members are currently answering their nations call to serve on active duty for both home land defense and peace keeping operations over seas it seems most fitting to give the training the guard and reserve members perform the appreciation it so rightly deserves.

The duties of the Guard and Reserve, which include pilots, infantryman, the elite special forces, military police and numerous other vital MOS rolls are ready and waiting for their number to be called. Personally, my First Sergeant told my unit "it's not a matter of if, but

when", and my country can rest assured that we are ready. The duties required of the guard and reserve have increased in value over the years and will likely continue to do so as the active duty requires more and more support.

Codifying the Rules for Interment in Arlington National Cemetery

In regard to the rules for interment in ANC, TREA continues to support the codification of all the rules governing access to ANC. The recent situation regarding Captain Charles Burlingame, USNR (Ret.), the pilot of flight 77 which crashed into the Pentagon on September 11th, confirms that the rules are not well understand, even at times within the defense establishment, and raises again questions about who should "make the call" when the rules come under scrutiny in the future. The Retired Enlisted Association strongly recommends that the Committee take up the issue of the overall codification of the rules governing Arlington National Cemetery burial at their earliest opportunity. The American people need to be reassured that the rules are clearly defined, properly codified and available for all to see.

The Military Coalition urges passage of H.R. 3423 to codify eligibility of "gray area" reserve service members – those who have completed reserve service requirements and are eligible to retire at age 60 – and National Guard and Reserve service members who die in the performance of inactive duty training and their eligible dependents, for burial in Arlington National Cemetery. TMC also strongly recommends codification of all the rules governing interment in the nation's most hallowed final resting place for its military heroes.

CONCLUSION

In conclusion, The Retired Enlisted Association appreciates the dedication and commitment of the members of this Committee in protecting, defending and restoring all the benefits earned by those who have served our nation in peace and war. Thank you for this opportunity to submit testimony on behalf of our membership.

Non Commissioned Officers Association of the United States of America
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STATEMENT OF

RICHARD C. SCHNEIDER
DIRECTOR OF STATE/VETERANS AFFAIRS

BEFORE THE

COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 3423
ELIGIBILITY OF CERTAIN VETERANS AND THEIR DEPENDENTS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

December 13, 2001

Chartered by the United States Congress

DISCLOSURE OF FEDERAL GRANTS AND CONTRACTS

The Non Commissioned Officer Association of the USA (NCOA) does not currently receive, nor has the Association ever received, any federal money for grants or contracts. All of the Association's activities and services are accomplished completely free of any federal funding.

Mister Chairman and distinguished Members of the Committee, The Non Commissioned Officers Association of the United States of America (NCOA) is most pleased to have the opportunity to testify on H.R. 3423, a bill to change the eligibility criteria for burial at Arlington National Cemetery to include certain other veterans. In fact, NCOA would like to recognize and commend the Committee Chairman, Representative Christopher Smith (R, NJ), who introduced the proposed bill to correct, in the Association's judgment, a flawed Army rule that inappropriately establishes an age requirement for the burial of retired reservists at Arlington.

BACKGROUND

The Secretary of the Army is the Executive Agent for the management of Arlington National Cemetery and has established the existing burial criteria for the internment of casketed and cremated remains. These policies are published in Title 32, Code of Federal Regulations and in Army Regulation 290-5. The specific Army criteria currently at issue is stated as follows:

"Any veteran who is retired from the Reserves is eligible upon reaching age 60 and drawing retired pay; and who served a period of active duty (other than for training)."

Reservists are not normally entitled to military retired benefits such as pay, health care, etc.) until they attain the age of 60. Historically, the Arlington internment policy was based on this required age criteria, attainment of age 60, the point at which eligibility was established for all authorized military service retiree benefits.

The current issue on internment of retired reservists resulted the initial denial of the Army to inter the remains of Captain Charles Burlingame, USNR Retired, at Arlington National Cemetery. Captain Burlington was the pilot of Flight 77 seized by terrorists that crashed into the Pentagon on September 11th, 2001. He is nationally regarded as an American hero and was among the very first casualties of the terrorist attack on America. The denial of his burial right at Arlington became a national citizen issue.

The Army after the original denial offered to allow Captain Burlingame to be interred in the existing grave of his father a former Air Force Chief Master Sergeant. That option would have denied the Captain's wife the future right to be buried with her husband. This denial and controversial burial offer quickly became a national embarrassment. Citizens were outraged that this Officer would be denied burial in his own right at Arlington and that upon death his wife

upon would not be eligible to be buried with her husband. The controversy continued further when a living veteran eligible for burial at ANC emotionally offered to "give up his grave" for Captain Burlingame. (Note: Veterans do not "own graves" and there is no right for any veteran to make such an offer).

The Army eventually reversed its original decision and Captain Burlingame was buried at Arlington National Cemetery, yesterday, December 12th, 2001.

SUPPORT OF PROPOSED H.R. 3423
AND EDIT RECOMMENDATION

Strongly support the proposed H.R. 3423 to direct the inclusion of retired members of the reserve in the existing criteria for burial at ANC. The specific provisions of the Bill and editorial comment follow:

a. The remains of a member or former member of a reserve component who at the time of death was under 60 years of age and who, but for age would have been eligible at the time of death for retired pay under 1223 of Title 10 may be buried at ANC on the same basis as the remains of members of the Armed Forces entitled to retired pay under that chapter.

Edit recommendation: Line 1 above be changed to read, "The remains of a retirement eligible member of a reserve component...". The proposed change would add clarity to the authorization.

b. The remains of the dependents of a member whose remains are permitted under paragraph "a" above to be buried in ANC on the same basis as dependents of members of the Armed Forces entitled to retired pay under such chapter 1223.

c. The remains of member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training my be buried at ANC on the same basis as the remains of a member of the Armed Forces who dies while on active duty.

d. The remains of the dependents of a member whose remains are permitted under paragraph "c" above on the same basis as dependents of members of active duty.

CONCLUSION

Mr. Chairman and Distinguished Members of the Committee. NCOA strongly believes that the proposed changes to allow burial of retirement eligible reservist, without regard to an age limitation, and reservists on active or inactive duty for training, and their eligible dependents family members should be authorized for burial at ANC. It is reprehensible to bar such a burial entitlement based on an arbitrary age requirement or deny when the death results during an authorized active or inactive training period. This legislation corrects deficiencies that penalize both the reserve member and family members from consideration for burial at Arlington National Cemetery.

Mr. Chairman, it is not only right but also the national moral high ground to codify these provisions in law to ensure no other family of a retirement eligible reservist is denied internment at Arlington National Cemetery. Tragically, Captain Burlingame military career and untimely death as a casualty of the terrorist war on America has brought to light an inequity for all retired members of the reserve components. NCOA is embarrassed that the Burlingame Family had to endure the denial of an Arlington National Cemetery burial right for their retired Naval Aviator Reservist, followed by the further insult of a bureaucratic compromise that offered burial in a gravesite as a dependent of a former Air Force Chief Master Sergeant. The latter action added insult to injury as it would have also denied the right for Captain Burlingame's wife to eventually be buried with her husband.

Again, thank you for the opportunity to testify on this important subject.

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STATEMENT OF
THE RETIRED OFFICERS ASSOCIATION

on

H.R. 3423

Submitted to

THE COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

December 13, 2001

Serving Those Who Serve America

The Retired Officers Association (TROA) is pleased to submit a statement for the record concerning H.R. 3423, a bill to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery. TROA is the fourth largest military veterans' organization representing approximately 390,000 active duty, National Guard and Reserve, retired and former officers and the surviving spouses of deceased members.

TROA does not receive any grants or contracts from the federal government.

H.R. 3423

TROA is deeply appreciative of Chairman Christopher Smith (R-NJ-4), for introducing this bill. H.R. 3423 would change existing law by eliminating the age requirement for retired reservists who would otherwise be eligible for in-ground burial at Arlington National Cemetery. In addition, H.R. 3423 would allow in-ground burial of reservists who die in the line of duty while on training duty.

H.R. 3423 would change a Defense Department rule which would preclude an American hero, Captain Charles Burlingame, USNR (Ret.), the pilot of flight 77 which crashed into the Pentagon on September 11th, from receiving full burial rights at Arlington. CAPT Burlingame completed a full reserve career in the Navy, was qualified for retirement from the Navy, and would have been eligible for interment in Arlington National Cemetery, except for the fact that he had not yet reached 60 years of age. Because CAPT Burlingame was otherwise fully eligible for retirement from the Naval Reserve, he should not be denied a separate plot in Arlington National Cemetery.

TROA has long maintained that reservists who have served their country honorably for a full service career and qualify for retirement (except for not yet having attained age 60) should be authorized burial in Arlington National Cemetery, and legislation should be enacted to that effect.

TROA also supports the provision in the bill that would authorize burial in Arlington National Cemetery for National Guard and Reserve servicemembers who die while on orders to perform inactive duty training. Reserve component servicemembers have been asked to shoulder a greater and greater share of the responsibility for defending the nation's security at home and abroad. With more than 52,000 National Guard and Reserve troops on active duty to perform vital homeland defense missions – guarding airports, nuclear facilities, and other potential targets of terror across the country – their training for such vital missions becomes more and more critical.

In today's "total force" environment, the performance of duty – not the technical distinction between active duty, active duty for training, or inactive duty -- should determine eligibility for most benefits, including eligibility for burial in Arlington

Cemetery, if a servicemember dies while in a duty status. Similarly, completion of retirement-qualifying service should be a deciding criterion, independent of attaining any specific age.

Codifying the Rules for Interment in Arlington National Cemetery

The confusion and uncertainty over the eligibility of CAPT Burlingame for burial in Arlington National Cemetery illustrates once again the perennial problem over the rules governing interment in the nation's most hallowed ground.

TROA continues to support the codification of all the rules governing access to ANC. The unfortunate situation concerning CAPT Burlingame's eligibility for a separate in-ground burial confirms that the rules are not well understood, even at times within the defense establishment, and raises again questions about who should "make the call" when the rules come under scrutiny in the future.

This Committee is to be commended for taking on this issue in recent years. Thanks to then Committee Chairman Bob Stump (R-AZ), present Chairman Chris Smith (R-NJ) and other members of the Committee at the time, the House in 1998 passed by unanimous vote and again by near-unanimous vote in 1999 legislation to codify the rules for burial in Arlington National Cemetery.

As passed by the House in the 106th Congress (1999), H.R. 70 would have established in law authorization for burial in ANC to:

- members of the Armed Forces who die on active duty;
- retired members of the Armed Forces, including Reservists who served on active duty;
- former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross, or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart;
- former prisoners of war;
- *members of the National Guard / Reserve who served on active duty and are eligible for retirement, but who have not yet retired* (emphasis added);
- the President or any former President;
- the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, unmarried adult children of the above categories.

The provision in the present legislation, H.R. 3423, would add to this framework eligibility of National Guard and Reserve servicemembers who die while in the performance of inactive duty.

TROA understands that during the time H.R. 70 was passed by near-unanimous House vote, the Senate Veterans' Affairs Committee (SVAC) was in general agreement with the bill but desired additional flexibility to accommodate worthy exceptions.

As we understand it, the SVAC would have endorsed the H.R. 70 provided an amendment were inserted to authorize the Secretary of Defense to have the authority to approve the burial of any veteran in ANC after consultation with the Chairmen of the House and Senate Veterans Affairs Committees; and, in addition, a provision to authorize the President to approve the burial of any citizen who has made a distinguished contribution to the United States. Unfortunately, when House and Senate Veterans Affairs Committees' conferees met to resolve their differences over codification of the rules over Arlington interment and other veterans' legislation, they were unable to reach a compromise on codifying the rules.

TROA strongly recommends that the Committee take up the issue of the overall codification of the rules governing Arlington National Cemetery burial at the earliest opportunity. The American people need to be reassured that the rules are clearly defined, properly codified and available for all to see.

TROA urges passage of H.R. 3423 to codify eligibility of "gray area" reserve servicemembers – those who have completed reserve service requirements and are eligible to retire, except for not yet having attained age 60 – and National Guard and Reserve servicemembers who die in the performance of inactive duty training and their eligible dependents, for burial in Arlington National Cemetery. TROA also strongly recommends codification of all the rules governing interment in the nation's most hallowed final resting place for its military heroes.

CONCLUSION

TROA appreciates the dedication and commitment of the members of the Committee in protecting, defending and restoring all the benefits earned by those who have served our nation in peace and war. We pledge support for enactment of H.R. 3423.

Vietnam Veterans of America
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A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

Testimony of

VIETNAM VETERANS OF AMERICA

Presented by

Patrick Eddington,
Associate Director
Vietnam Veterans of America

Before the

House Committee on Veterans' Affairs

Regarding

H.R. 3423

To amend the United States Code, to enact into law eligibility of certain veterans for burial at Arlington National Cemetery

December 13, 2001

Vietnam Veterans of America

House Veterans Affairs Committee
H.R. 3423
December 13, 2001

Chairman Smith, Ranking Member Evans, and other distinguished members of the Committee, Vietnam Veterans of America (VVA) is pleased to have this opportunity to provide our comments for the record on our concerns regarding H.R. 3423, which would amend Title 38 of the U.S. Code to allow the burial of a current or former member of the reserve component of the Armed Forces of the United States, as well as their dependents, to be buried at Arlington National Cemetery, even if said reservist did not meet the current age and time in service eligibility requirements of existing law.

This bill is a response to the tragedy that affected the family of Captain Charles Burlingame (the pilot of Flight 77 which crashed into the Pentagon on September 11, 2001) from receiving full burial rights at Arlington. We concur fully with your view that reservists like Captain Burlingame who die as a result of enemy action should be accorded burial at Arlington, if that is their or the choice of their survivors. We would respectfully suggest, however, that Captain Burlingame's case helps illustrate a point VVA has made to this Committee on prior occasions: Arlington Cemetery can and must be expanded.

As we have testified previously before this Committee, the lack of burial space for our veterans—at Arlington and across the country—is yet another example of the distortions in resources within the VA system, brought on by years of underfunded budgets. At present, we are deeply skeptical that VA's existing and planned cemeteries will be able to handle the number of World War II and Korean War veterans who will leave us over the next decade. Simply put, acquiring burial space requires: a) an available property, and b) the funds to purchase the property, as well as build and maintain the cemetery. We have some concrete suggestions on this topic that we would like to share with you.

VVA is perplexed at why the Navy Department continues to use the aging, deteriorating buildings at the Navy Annex adjacent to Arlington when more modern office space is available in the Washington metro area. If the Navy Department were to vacate the Navy Annex and cede the land to Arlington, thousands of additional burial plots would become available. We believe that this Committee and its Armed Services counterpart should hold hearings into the feasibility of this proposal early in 2002.

Secondly, VVA believes that it would also be possible to create a new national cemetery in the city of Washington. We are aware that there are unused tracks of land in need of redevelopment within the District, specifically in the areas near the Takoma or Rhode Island Avenue Metro stations. Turning these unused or underutilized spaces into one or more appropriately landscaped and maintained national cemeteries would create new national shrines to provide final homes for our honored dead, as well as ease the overcrowding in Arlington Cemetery that is worsening on a daily basis.

Outside of the national capitol region, we would respectfully suggest that sites identified as excess by the Base Realignment and Closure Commission be evaluated for their suitability for conversion to national cemeteries. We understand that Congress often

prefers to see such excess property sold to private developers as a way of enhancing revenues. However, given the expected increase in veteran burials over the next 15 years, we believe each facility slated for closure under BRAC should be carefully evaluated for its suitability for conversion to a national cemetery.

Vietnam Veterans of America sincerely appreciates the opportunity to present our views on these extremely important issues, and we look forward to working with you, Mr. Chairman, and your distinguished colleagues on this Committee to address and resolve these and other important matters of concern to our nation's veterans.

STATEMENT OF RICHARD JONES, NATIONAL LEGISLATIVE DIRECTOR, AMVETS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of AMVETS National Commander Joseph W. Lipowski, I am pleased to submit a written statement for the record on amending criteria on eligibility for burial at Arlington National Cemetery.

Arlington National Cemetery is America's most prominent national cemetery. It serves as a national shrine and a tangible reminder of our heritage and an inspiration for our future. It honors the men and women who have served in our armed forces and those Americans who have made extraordinary contributions to the Nation. This site, on a hillside overlooking the Potomac, has become a land of veneration and symbol of reverence for Americans everywhere.

AMVETS supports legislation being considered today that, in effect, eliminates the requirement for retired reservists to be 60 years old before being admitted to Arlington. Burial in this most hollowed ground should not be hinged to that point in the life of a retired reservist at which he begins to collect his retirement pay. H.R. 3423 would amend the strict standards for burial at Arlington in this regard. It would maintain the integrity of the strict standards for interment at Arlington but also recognize the need to address potential problems as they apply to an entire category of individuals. We also believe it is appropriate, as this legislation prescribes, to allow for dependents of entitled reservists to be buried in the cemetery on the same basis as is provided currently eligible members of the Armed Forces.

AMVETS also supports provision in the legislation to recognize that members of the reserves who die in active duty training or inactive duty training should be allowed burial in Arlington National Cemetery. Often mixed flight crews of reserves and active duty personnel work together to fly in troops, materiel, and related supplies. If such a plane were to unfortunately fall from the sky, current code holds active duty personnel eligible but reservists not. This is a peculiar outcome, based solely on the reservist's "paperwork" describing an individual's status as "in training."

In addition, AMVETS calls on Congress to revisit standards in place for burial at Arlington as they are applied to our Nation's Guard and Reserve Forces. Over the past two decades, military service to country in the Guard and Reserve has changed dramatically and members of these services have distinguished themselves in sometimes extensive duty in many areas of the world including the Persian Gulf, Bosnia, and other areas where they have been tasked to serve.

We fully recognize that Arlington has been governed by eligibility standards for burial for more than 30 years. These rules were put in place because land available for burial was limited and part of the Army's plan was designed to ensure that Arlington would remain active as our Nation's foremost national cemetery. The rules establish who gets honored with burial at Arlington.

These rules governing burial at Arlington are strict, as they should be. Past rules have served us well to uphold the sanctity of Arlington as a final resting place and tribute to those Americans who have served our country with distinction. We must recognize, however, that times change and reiterative review of policy is an appropriate undertaking for Congress. As America moves forward, we should clearly recognize the changing missions of our military forces and incorporate and update policy as appropriate.

There are occasions, however, when change cannot await a deliberative process. There are times when tension arises between existing rules and America's pervading sense of fairness. The tragic cases of Charles F. Burlingame III and Johnny Michael Spann are clear examples of exceptions to the rule.

Regarding the recent waivers, AMVETS fully supports the Army's action to lift restrictions of eligibility for burial as provided to retired naval reserve captain Charles "Chic" Burlingame III, pilot of the American Airlines flight 77, which crashed into the Pentagon on September 11. Chic Burlingame, a graduate of the Navy's elite Top-Gun school, had flown jet fighters for the Navy for eight years and retired from the Naval Reserves after 17 years. Though he was retired from service, he did not meet age

requirements for burial at Arlington. Retired reservists have to be 60 years old or older at the time of death, regardless of the manner of their death. We learn from news reports about indications that he most likely died prior to the plane going down and probably in combat with terrorists who targeted the Pentagon.

We also support a waiver signed by the President to allow the remains of CIA paramilitary officer Johnny Michael "Mike" Spann, the first U.S. combat death in Afghanistan, to be buried at Arlington National Cemetery. Mike Spann died in military service to his country.

Both of these recent waivers are appropriate uses of exceptions to the rule for individuals of military backgrounds and provide the flexibility needed by stewards of Arlington.

This concludes our statement. Again, thank you for the opportunity to testify on this important issue, and thank you, as well, for your support of veterans.

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STATEMENT OF
BRIAN E. LAWRENCE
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
UNITED STATES HOUSE OF REPRESENTATIVES
DECEMBER 12, 2001

Mr. Chairman and Members of the Subcommittee:

I am pleased to submit the views of the Disabled American Veterans (DAV) regarding H.R. 3423, which would reform burial rules at Arlington National Cemetery.

Recent tragic events have illustrated the need to allow military reservists who meet all eligibility criteria, except the age requirement, to receive burial at America's most cherished cemetery.

Because he was not age sixty or more, American hero Captain John Burlingame was nearly prevented from receiving the well-deserved honor. Captain Burlingame was the pilot of the hijacked plane that crashed into the Pentagon on September 11, and a retired Navy Reserve fighter pilot. Clearly, the well-intended purpose of the burial requirement does not outweigh the need to honor such distinguished citizens.

The DAV supports H.R. 3423 because it would ensure that career reservists are eligible for the honor of burial at Arlington, a benefit warranted by their service to our country, regardless of their age. The bill also ensures that reserve members who die while performing duty are eligible for burial at Arlington.

Military reservists are essential to the security of democracy. Reserve forces have had increased responsibilities during recent campaigns and their mission is vital to national defense. Their service and sacrifices must be honored, especially those whose lives were lost in defense of our freedom. Title 38, United States Code, entitles reservists, injured in the line of duty, to receive benefits administered by the Department of Veterans Affairs. Therefore, it is inconceivable that such veterans would not also be entitled to burial at Arlington.

DAV urges Congress to pass H.R. 3423 to end the inequity toward military reservists, and bestow the honor and respect warranted by their noble service to our country.

On behalf of the more than one million members of the DAV, we thank you for the opportunity to present our views, and we thank the Subcommittee for its continuing support of our nation's veterans.

Statement of
The Enlisted Association of the
National Guard of the United States (EANGUS)
on
H.R. 3423
for the
HOUSE VETERANS' AFFAIRS COMMITTEE
December 13, 2001

MSG Michael P. Cline (Ret) Executive Director

MISTER CHAIRMAN AND DISTINGUISHED COMMITTEE MEMBERS:

On behalf of the men and women of the Army and Air National Guard, I am grateful to have this opportunity to express the views of the Enlisted Association of the National Guard of the United States (EANGUS) concerning H.R. 3423, a bill to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery.

H.R. 3423
EANGUS is deeply appreciative of Chairman Christopher Smith for introducing this bill. H.R. 3423 would change existing law by eliminating the age requirement for retired reservists who would otherwise be eligible for in-ground burial at Arlington National Cemetery. In addition, H.R. 3423 would allow in-ground burial of reservists who die in the line of duty while on training duty.

EANGUS has long maintained that reservists who have served their country honorably for a full service career and qualify for retirement (except for not yet having attained age 60) should be authorized burial in Arlington National Cemetery, and legislation should be enacted to that effect.

Reserve component servicemembers have been asked to shoulder a greater and greater share of the responsibility for defending the nation's security at home and abroad. With more than 52,000 National Guard and Reserve troops on active duty to perform vital homeland defense missions – guarding airports, nuclear facilities, and other potential targets of terror across the country – their training for such high-risk missions becomes more and more critical.

EANGUS urges passage of H.R. 3423 to codify eligibility of "gray area" reserve servicemembers, those who have completed reserve service requirements and are eligible to retire at age 60 and their eligible dependents, for burial in Arlington National Cemetery.

CONCLUSION
EANGUS appreciates the dedication and commitment of the members of the Committee in protecting, defending and restoring all the benefits earned by those who have served our nation in peace and war. Thank you for the opportunity to submit testimony on behalf of our membership.

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