HOUSE OF REPRESENTATIVES—*Tuesday, May 11, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We earnestly pray, gracious God, for peace in our hearts and in our troubled world. From every background of faith or party, from every person of our Nation or across the seas, from every voice whether in the conflicts or not, we pray for the easing of hostilities and for the protection of human lives. May all those involved see in both friend and foe the unity we have in Your gift of life, the possibilities for understanding and a shared compassion one for another. May the words of our mouths and the meditations of our hearts be found acceptable in Your sight, O creator of our lives and every person. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Washington [Ms. DUNN] come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 71. Concurrent resolution authorizing the use of the Capitol Grounds for the 12th annual National Peace Officers' Memorial Service.

H. Con. Res. 81. Concurrent resolution authorizing the 1993 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 82. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 349. An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

S.J. Res. 58. Joint resolution to designate the weeks of May 2, 1993, through May 8, 1993, and May 1, 1994, through May 7, 1994, as "National Correctional Officers Week".

The message also announced that pursuant to section 1024, of title 15, United States Code, the Chair, on behalf of the Vice President, appoints Mrs. BOXER, to the Joint Economic Committee, vice Mr. BRYAN.

DEFENSE REINVESTMENT AND HIGH-TECH JOB CREATION ACT OF 1993

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, the President and the Committee on Ways and Means have decided to forgo the original investment tax credit proposal and look for other means to stimulate the economy.

Today I and a bipartisan group of cosponsors are introducing the Defense Reinvestment and High-Tech Job Creation Act of 1993, which can serve as one of those economic catalysts that the Congress is seeking.

There is no more important mission for this Congress than to retain and build high-skill, high-wage jobs. Over the past decade, the Defense budget has served as a catalyst for those jobs, but the downsizing that is occurring with the end of the cold war will force us to be more creative.

This bill is designed to allow aerospace companies to diversify into critical and competitive industries such as transportation, communications, medical research, and green technologies. The bill will give tax incentives to defense companies to hire employees and buy equipment targeted for commercial manufacturing.

Defense reinvestment is one of the most difficult and challenging problems confronting this Congress. This bill will help move this process forward using market forces and without the Government determining winners and losers.

I urge its prompt consideration by the House Ways and Means Committee.

LET THE SUNSHINE IN ON TAX BILL DECISIONS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, the virus of secrecy has spread from the White House health care task force to the Committee on Ways and Means. If this is indeed the Age of Aquarius, why don't we let the sunshine in? Its Democrat members seem to fear public scrutiny the way a vampire fears the sunlight. The result is likely to be an ugly tax bite on the neck of the average American family.

Last Thursday, the committee majority slammed the doors on the public by evicting all nonmembers from their tax-writing session.

All committee Republicans voted against the closed-door session, and our Republican freshmen hung a sign on the door outside that read, "Do not disturb: Democrats Raising Taxes."

Mr. Speaker, the American people should know what is being said behind those locked doors and who is saying it.

Mr. Speaker, scripture assures us that deeds done in darkness will one day come to light. This is one text even the Committee on Ways and Means majority cannot rewrite.

So let us open those doors, you Democrat Aquarians and let the sunshine in; it is a great disinfectant.

NATIONAL SMALL BUSINESS WEEK

(Mr. MAZZOLI asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. MAZZOLI. This is the National Small Business Week, and I am honored to announce that the Small Business Person for the Year from the State of Kentucky is a friend of mine from my hometown of Louisville, Allen Steinbock, president of Whip-Mix Corp., which has been in business since 1919 and engages heavily in export activities involving dental supplies and equipment.

Certainly, Mr. Speaker, the President's economic program for this year is designed to encourage small business, which is the engine of jobs in America and in Kentucky.

The President wants to reduce the deficit. He has reduced some of the regulations to encourage bank lending to small businesses. He hopes to create a secondary market for small-business securities.

In the last analysis, Mr. Speaker, America's economy will only become stronger if small business becomes stronger. And, in that connection the

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President's program is on the right track.

DEMOCRATS ACT BEHIND CLOSED DOORS ON TAX PROPOSALS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the Committee on Ways and Means reconvened this morning to continue their consideration of the tax bill. And once again, the Democrats on that committee voted to shut out the public by going behind closed doors to vote on important tax issues. It seems that the Democrats do not want to let their constituents know their votes on specific tax increases.

Mr. Speaker, we are back to business as usual here in the District of Columbia, a place where decisions that affect all our constituents are made behind closed doors by a handful of Democrat committee members. I am disappointed that my colleagues on the Ways and Means Committee have chosen to operate in this fashion once again. The American people are angry—they deserve to know what next taxes are being proposed, since they are the ones who will have to empty their wallets.

What are we scared of? Why can we not let the sunshine in? Why do the Democrats not want their votes on record?

It is business as usual with the tax and spend Democrats—more taxes and more spending for a bigger Government is what is happening here.

IMPROVEMENT IN ECONOMY HINGES ON ENACTMENT OF THE PRESIDENT'S PLAN

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, our last President erred when he maintained that the economy would take care of itself.

Under President Bush's watch, the deficit soared, U.S. jobs were exported overseas and middle-class families strayed off course of the American Dream.

Last November the U.S. electorate held a national referendum on which direction the country should be heading.

In choosing President Clinton, the American people embraced change and they indicated they wanted a departure from the "business as usual" politics of the Bush and Reagan administrations.

More importantly, President Clinton has recognized that middle-class Americans have carried more and more of the tax burden while enjoying less and less of the benefits.

That is why President Clinton wants the wealthiest individuals and corporations to pay a fairer share of taxes.

The last administration stated the economy would improve as millions of Americans lost their jobs. We cannot afford 4 more years of inaction.

Already the Congress and President Clinton have enacted a budget resolution that cuts Government spending by more than $500 billion over the next 5 years.

The President has a program to create jobs, to make our neighborhoods safe again and to provide college for young people. These programs will help recapture the American dream.

Mr. Speaker, middle-class Americans deserve the full attention of the President and the Congress. We need to enact the President's plan.

□ 1210

FARMERS AND THE CLINTON ENERGY TAX

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, as the Democrats in the Ways and Means Committee raise taxes behind their closed doors, I hope they keep in mind the role of farmers in this country.

Daniel Webster once said, "The farmers are the founders of civilization."

Well, Mr. Speaker, the founders of civilization will be in big trouble with the Clinton energy tax.

According to the American Farm Bureau, the President's planned tax will cost American farmers $1 billion a year. Think of it, $1 billion of additional cost each and every year.

And that is not all. Because foreign producers would not pay the Clinton energy tax, they will be able to compete more effectively with American farmers in both overseas and domestic markets.

The Clinton energy tax will have a communities devastating impact on farmers and rural communities which are forced to use more fuel annually than those who live in cities.

Farmers may indeed be the founders of civilization, but Bill Clinton has found a new way to make them pay over and over again for the privilege.

TAX AND TAKE

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, the President says the communications vouchers in his campaign finance reform package will not be paid for by the American people and not one red cent will be diverted from other programs to pay for congressional campaigns. I respectfully but strongly disagree.

It is public financing, folks. It is coming out of the public's pocket because the so-called $5 voluntary checkoff takes tax revenues from other programs. And the lobbyist tax deduction should be going to those other programs rather than paying for our campaigns. This is worse than tax-and-spend Government; it is tax-and-take for politicians.

Tax and take, tax and take. That is bad politics and bad public policy.

Mr. Speaker, I support the President's campaign reform initiatives, but let us stop direct public financing and look for some alternative options for getting politicians to limit their campaign spending.

THE STEALTH TAX

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, at this very moment, Ways and Means Democrats are quietly trying to levy a stealth tax on the middle-class taxpayer.

Remember the stealth bomber? This was a plane that was able to evade radar detection and bomb the enemy more effectively.

The Clinton administration has designed a tax that will do the same thing to the taxpayer. Code-named Btu, this stealth tax is supposed to silently hit the taxpayer hard in the wallet, without the taxpayer really ever knowing it.

Mr. Speaker, stealth taxes are not in the best interests of the American people. The taxpayer should not be treated by the Clinton administration as if he were the enemy.

KEEP FOREIGN AID AT HOME

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Congress gives Egypt $2.4 billion a year in foreign aid, and last year our Government had forgiven a $7 billion loan to Egypt.

Now, Egypt repaid that by putting three Americans in jail. Their crime? They were promoting Christianity, but President Mubarak said, "I'll pardon these Americans."

You know, we spend billions of dollars all around the world to protect human and religious rights and then people who get our hard-earned taxpayer dollars in foreign aid put Americans in jail for promoting Christianity.

I say it is time to stop foreign aid. Send it to the American cities where maybe we can have a little bit of development and opportunity for our own people.

A WRONG ENERGY TAX

(Mr. PAXON asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, we have all heard the arguments for and against the President's proposed energy tax from the politicians. Unfortunately, the one voice we have not heard enough of is the voice of the American taxpayer.

I recently received a letter regarding the proposed energy tax from a constituent, Mr. Craig Phelps, owner of a family farm in Groveland, NY.

In his letter, Mr. Phelps estimated that this tax will cost his farm an additional $8,200 a year in increased energy costs, with the indirect costs of this tax pushing that total even higher.

As Mr. Phelps correctly points out, Americans who live and work in rural areas will bear the brunt of this unfair and unwise tax increase.

Maybe it is the unpopularity of this Btu energy tax that has compelled the Ways and Means Democrats now to decide to hold their secret sessions to consider this tax.

The President has said that due to the energy tax, "Middle income families experience only a slight increase in their tax liabilities."

Obviously, neither the President nor his staff consulted with a taxpayer before proposing this onerous tax. Congress and the President cannot impose new taxes on working Americans, even in secret, and continue to believe that families, employment, and the economy will not suffer.

FEDERAL MANDATES ON LOCAL GOVERNMENTS

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, we pass a lot of very good bills in this House. In fact, I vote for almost all of them, but I think they would be a lot better bills if we knew the impact that they were going to have upon State and local governments and the private sector.

Last year State and local governments spent more money complying with unfunded Federal mandates than they received in total Federal assistance.

We have a bill called the Fiscal Accountability and Intergovernmental Reform Act. What it would do is to require that we know what the cost is going to be to the State and local governments and the private sector before we pass legislation out of committee to the House floor.

The gentleman from Pennsylvania [Mr. GOODLING] and about a hundred cosponsors are on this bill, as well as dozens of mayors, local government officials, and State officials.

Mr. Speaker, I urge my colleagues to get on board and to correct what really is an injustice from the point of view of State and local officials and heads of private sectors who have to come up with the money that has resulted from an increasing policy of passing a bill and then passing the buck to others.

PULLING THE PLUG

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Democrats have pulled the plug on the open hearing process.

Last week, Ways and Means Democrats kicked the public out of their committee meeting so they could raise taxes without public scrutiny.

Today, they may kick Republicans out of the process, so they would not have to vote on Republican amendments.

One of the most onerous provisions is the so-called Btu tax, which is better known as the middle-class energy tax. This tax will not only increase the energy bill of almost every American family by $500. It will also increase the costs on almost every other consumer good.

Republicans are strongly opposed to this middle-class energy tax. But because the light of public scrutiny has been dimmed by the Democratic majority, we have not had the opportunity to kill this tax.

Maybe the Democrats are simply getting the jump on saving energy by raising this tax in the dark. In my mind, that energy would be better spent killing this harmful tax on the middle class.

NUCLEAR TESTING

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, last year my colleague, the gentleman from Oregon [Mr. KOPETSKI] introduced, and the Congress passed, legislation banning nuclear tests after 1996. Now we hear that the President may be advised to allow resuming those tests beyond 1996 if their yield is less than one kiloton.

But when is a test not a test?

I want to quote George Orwell's book, 1984, as the Pentagon and the Department of Energy would edit it: "War is peace, freedom is slavery, ignorance is strength, a small nuclear test is not a nuclear test."

This year, DOE has been given $462 million to conduct nuclear tests. But the ironic thing is, they will probably not even conduct any tests this year.

There are so many more valuable programs to spend money on that truly make our Nation strong. We could use that money to provide childhood immunizations, quality education and affordable health care.

Mr. Speaker, those are areas I would rather invest in and I think the majority of the American people would agree. Let us consider testing nuclear weapons only if we actually plan to use them. And I do not think any of us are ready to do that.

□ 1220

LET THE SUNSHINE IN

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, at the beginning of the 1970's, my home State of Washington began some remarkable pioneering in public policy. First, a series of environmental protection laws to guard the land and water resources of our lovely State.

Next, the State of Washington took another historic step by passing an open meetings law that required all levels of government to conduct the public's business with an open door to all citizens and the news media.

No more closed door committee meetings. No more executive sessions where, behind closed doors, committees write the final text of legislation and the budget.

Mr. Speaker, many of us who are new to the Congress have been surprised to find that much of our Nation's important business is conducted behind closed doors. We believe—and we hear the same message from citizens—that the great decisions of Congress ought to be made in the sunshine—in full view of citizens and the media.

Mr. Speaker, this week the Republican freshman class will introduce a measure that will significantly open the process of congressional meetings and hearings. It is our equivalent of the sunshine law that Washington State has enjoyed for nearly a quarter of a century.

My colleagues, let us have this 103d Congress be remembered in history as the Congress that let the sunshine in on all the people's business.

HONORING DAVE JOSEPH SANTOS AS A POSTHUMOUS RECIPIENT OF THE SBA STATE SMALL BUSINESS PERSON OF THE YEAR

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, this week we honor extraordinary men and women who are seldom recognized for their contributions to this country. They are, nevertheless, the backbone of this great Nation's economy and in a larger sense the very embodiment of the American dream.

I choose to honor today Dave Joseph Santos, a small business man from

Guam who, sadly, passed away last December at the age of forty-one. But by that young age, having started with only 2 employees, 4 clients, and no computers, he had built his business into a successful advertising agency, employing dozens of people and servicing 30 corporate clients and the government of Guam.

Throughout his company's early years, Dave kept the firm's entire accounting records—job orders, billings, collections, payroll, financial statements, and tax returns, leaving very little time for himself. Dave sacrificed throughout his company's growth to ensure the success of his business and the success of others who worked for and with him. The extra time he had; he gave to the community: serving on the board of the Guam Chamber of Commerce, the school board, and as treasurer of the Guam Tax Code Commission. He worked hard to give back to the people that had helped make him a success.

It is through the sacrifices of people like Dave Santos that Guam and America have been built. You see, men and women like Dave Santos create the majority of the jobs in this country. Men and women like Dave Santos drive our economy. Men and women like Dave Santos embody the ideals of self-help and are inspiring examples to all, especially our youth. It is only fitting that we honor them.

Si Yu'os Ma'ase' Dabet!

ELIMINATING TIMBER SALES ON PUBLIC LANDS WOULD DEVASTATE NORTHERN WISCONSIN

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, President Clinton wants to stop timber harvesting on our public lands. This would devastate northern Wisconsin.

Mr. Speaker, logging in the Nicolet National Forest directly provides 1,000 jobs and is responsible for $49 million that goes into the local economy.

Charles Linderud, from Crandon, WI, put it best when he wrote and asked, "Must we put local industry out of work and let the forest crop rot?"

Mr. Speaker, the timber program provides jobs not just in logging, but in lumber, housing, and paper. It supports many of our rural communities entirely.

For example, Dennis Fincher, from Antigo, says, "The schools and local government will lose some $3.4 million in revenues, not to mention the millions of dollars in lost income taxes due to increased unemployment."

Members of Congress, I am asking you to help me save these jobs and return commonsense to our Government. Let us do something for working Americans for a change.

DEMOCRATS DANCING IN THE DARK

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the Democrats have decided to exercise the privileges of membership and exclude the American people from their tax dance. It is ironic that the American people are required to pay the dues but are not allowed to attend the balls of the Democrats' tax club. The result is that the Democrats are dancing in the dark while the public pays the band.

The Democrats decided to hold their tax dance after tax club President Bill Clinton said that there was not enough money coming in. The solution? It was not to cut spending as you might expect in some organizations. No, that is not the tax club's way. You see the tax club is different. It is the only club in the world where nonmembers pay the dues and club members do the spending.

Of course, tax club President Clinton does not call them dues any more than he calls them taxes. Their name has ranged from sacrifices to contributions and according to today's Washington Times, the new euphemism for taxes is "responsibilities." Fortunately, for President Clinton and the other taxdancers, whatever you call them—sacrifices, contributions, or responsibilities—they all spend the same. Unfortunately, for the American people paying the musicians, they all cost like taxes.

LAVERGNE HIGH SCHOOL STUDENT LEADERSHIP PROGRAM

(Mr. GORDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORDON. Mr. Speaker, some naysayers would have us believe that today's young people are not motivated, do not care about others, and will not work hard.

I challenge the critics to visit LaVergne High School and its student leadership program. They will see all that is good about today's teenagers. And they will leave knowing that today's students represent a bright future for us all.

Many people deserve credit for what the leadership program has accomplished: the teachers and administrators for guiding the program, the Ingram Distribution Group for its commitment, parents for being involved.

But the leadership program students are the real success story. From beautifying their school to overcoming apathy to increasing handicapped awareness to fighting teen pregnancy, they have tackled tough issues with hard work and innovative ideas.

And, they have gotten results that will have a lasting impact while setting an example for the rest of the Nation. In fact, the program has been cited as one of the top five education improvement ideas in the country. Dozens of other schools have sought information on how to get started.

We should congratulate the students on their success. And more importantly, we should thank them for showing that our young people still can and do want to make a difference.

INTRODUCTION OF THE 1993 NUCLEAR WASTE POLICY REASSESSMENT ACT

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, today I am introducing legislation which would establish an independent study of the activities at Yucca Mountain, NV.

Yucca Mountain is currently the only site under consideration for permanent disposal of the Nation's thousands of metric tons of lethal high-level radioactive waste. This came about in 1987, when the Federal nuclear waste disposal site characterization program was shifted from three sites to one during budget reconciliation.

"At the time, we in Nevada and the Nation were told that this was the best policy because it would save money, time, and ensure maximum scientific objectivity. Well, as anyone who has followed developments over the past 6 years knows, those predictions have not come true. The cost overruns at Yucca are enormous, the program is far behind schedule, and disputes about the safety of long-term, deep geologic disposal at Yucca Mountain are well-documented, longstanding, and continue to this day.

Perhaps most troubling, it would appear that the Clinton administration is following a more-of-the-same policy regarding the Yucca Mountain project.

For the reasons mentioned above, I am introducing the Nuclear Waste Policy Reassessment Act of 1993.

The legislation would do three key things: First, place a moratorium on all spending at Yucca Mountain for 5 years; second, direct the National Academy of Sciences, in consultation with all stakeholders in the siting controversy at Yucca Mountain, to determine the scientific and financial merits of continuous study of a single potential site or return to consideration of multiple sites; and, third, rebate moneys from the nuclear waste trust fund to the utilities for onsite storage as a result of program delay mandated by this bill.

I call on the administration and my colleagues to support this legislation and send the message that this problem-plagued program should get the outside review that is so desperately needed.

□ 1230

INTRODUCTION OF FASB RESOLUTION

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, the Financial Accounting Standards Board, known as FASB, proposed a requirement that companies deduct from their profits the value of stock options granted to employees.

Although the Board's intent—to improve disclosure of compensation—is important, the proposal does nothing to improve current reporting.

Instead, it stifles entrepreneurship which is what we need and want.

Startup companies use stock options to attract talented people who are willing to both work hard and take a risk.

It allows the secretary, the receptionist, or the engineer to buy options which may only cost 50 cents a share today, but could be worth $5 or more down the road. When employees buy in, they share the responsibility of the ultimate success of their company.

Mr. Speaker, to rebuild our economy we need to both retain small businesses and encourage new ones.

That is why I am introducing a concurrent resolution today which expresses Congress' view that the accounting board not adopt the proposal.

I urge my colleagues to join me in supporting this resolution.

PRESIDENT HAS NOT DEFINED BOSNIA STRATEGY

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, last night at the Wayzata Fire Department back home in Minnesota, a firefighter said to me, "Please tell the President not to send my Marine son or my Air Force son to the Balkans. He has not explained our national interest or mission."

Mr. Speaker, this firefighter constituent is a wise parent and wise patriot. Before we put one American pilot or troop in harm's way, the President must clearly define our national interest and mission.

We must not repeat the nightmare of Vietnam.

As Gen. Colin Powell has told us, before we send troops into a dangerous situation, we must have a precise mission statement that defines how we get in, accomplish our goals, and get out.

So far, we have not seen such a well-defined strategy from the President. As one who lost three close friends in Vietnam, it is downright eerie to hear another President talk about bombing his enemies to the negotiating table.

Military experts have told us air strikes alone will not do the job and would cost American lives.

Lord Owen has said, "It's only a delusion that bombing will end the war. You can't solve the problem at 10,000 feet."

Mr. Speaker, there must be a reason no European ally has endorsed the administration strategy against the Bosnian Serbs. Perhaps they have learned history's hard lessons.

THE RELIGIOUS FREEDOM RESTORATION ACT

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and revise and extend her remarks.)

Ms. SHEPHERD. Mr. Speaker, for the past 3 years, our religious rights have been under siege. In 1990, a single Supreme Court decision abolished the standard that protects religious freedom in this country. Today, I urge my colleagues to vote in favor of the Religious Freedom Restoration Act in a bold move to resurrect the first inalienable freedom set forth in the Bill of Rights.

Years ago, the Pilgrims came to this country after facing religious persecution in other parts of the world. Similarly, members of the Church of Jesus Christ of the Latter-Day Saints settled in my home State of Utah in the late 1800's after encountering discrimination in the East and Midwest. Unfortunately, the religious rights of other groups like native Americans and Orthodox Jews continue to be sabotaged in the 3 years following the Supreme Court's decision. Without quick and decisive action, members of other faiths will face the same fate.

Mr. Speaker, today this Congress can restore faith to the first amendment by returning religious rights to the American people. I encourage my colleagues to vote in favor of this bill.

MAJORITY EXCLUDES REPUBLICANS IN DRAFTING TAX BILL

(Mr. POMBO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. POMBO. Mr. Speaker, last Thursday the Ways and Means Committee of the House began marking up President Clinton's enormous tax bill. The majority voted to take the committee into executive session. To you and me, that is a secret meeting. The Republicans objected to throwing out the press and the taxpaying public. Why? Because when the Tax Committee is considering the largest tax increase in the history of our Nation, we must have an open process.

Worse still, I understand that the majority has become fed up with the presence of the pesky minority, their colleagues on the committee. I am told that the majority has now started meeting alone to draft up this tax bill.

Did they not learn anything from the $16 billion pork-filled stimulus bill?

The majority leadership has a big decision to make. They can work with us or against us. They can include us in the process or exclude us. The decision is theirs. We cannot force them to allow the press and the taxpaying public into the Ways and Means Committee hearings. We cannot even force them to allow the Republican members of the committee into the room as they consider the largest tax increase in history.

But, Mr. Speaker, we can tell the American people that so far this year it is business as usual and nothing has changed.

TRIBUTE TO RABBI ABBA HILLEL SILVER

(Mr. FINGERHUT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINGERHUT. Mr. Speaker, it is with great pride that I rise today to deliver a tribute to the late Rabbi Abba Hillel Silver. While Rabbi Silver is best known as one of the chief architects of the State of Israel, he was also one of this country's great civil rights advocates and Jewish spiritual leaders. This week the rabbi's Cleveland synagogue, the Temple-Tifereth Israel Congregation, concludes a yearlong celebration of the centenary of his birth. The main branch of what is affectionately known as Silver's Temple is located in Congressman LOUIS STOKES' district, and a sister branch is located in my district, Ohio's 19th. While Congressman STOKES could not stand with me today, we wanted to take a moment on the floor of the House of Representatives to recognize Rabbi Silver's work and note how it still ripples through America today.

Born in Lithuania in 1893, Abba Hillel Silver immigrated to America with his parents as a 9-year-old. Following in the footsteps of three successive generations of his family, he was ordained a rabbi in 1915. Two years later, he was installed at the Temple in Cleveland, which, under his 47-year leadership, grew to become one of the country's leading synagogues.

A tireless advocate for America's workers, he helped draft Ohio's first unemployment insurance law and advised President Herbert Hoover on the country's unemployment problems.

During the early years of Nazi power in Germany, while many American Jewish leaders declined to oppose Hitler, Silver helped organize anti-Nazi boycotts. His 1941 book, "The World Crisis and Jewish Survival," provided eloquent hope for a Jewish people facing persecution. As president of United Palestine Appeal and cochair of the United Jewish Appeal, Silver helped persuade Congress, President Harry

Truman, the British Government, and the United Nations that: "Just as there is an England, a France, and a Germany, there must be a land of Israel in order that the status of the Jewish people might be normalized throughout the world." When the State of Israel was officially proclaimed on May 14, 1948, the victory was as much Silver's as it was David Ben-Gurion's or any other Zionist leader's.

While Rabbi Silver influenced United States policy to Israel for years, in the Cleveland area we remember Rabbi Silver for his wisdom and spiritual guidance. A 1953 Life magazine profile said of Silver, "When he preaches, his words come out in organ tones." Years later, we can still hear the music of his words, and we can still feel the strength that they gave to so many.

THE CREATION OF JOBS UNDER NAFTA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it gives me great pleasure to support President Clinton when he is right. Clearly, he is right when he says we need NAFTA because NAFTA will create American jobs.

Last week a group of us met with the U.S. Trade Representative and my fellow Angeleno, Mickey Kantor, who said that we need NAFTA because NAFTA will create a net gain of 400,000 American jobs, primarily in the small- and medium-sized business area.

I would like to be specific. Cal-State Lumber Sales in San Ysidro, CA, the largest Hispanic-owned business in our State, increased their sales from $14 million in 1989 to $138 million in 1991, with $84 million in exports to Mexico. Mary Alice Acevedo, their director of international sales, says, and I quote:

> Mexico has allowed us to remain competitive, and our U.S. employment has gone up 30 percent.

In Indianapolis, IN, the SaniServe Corp. manufactures ice cream and slush machines. Exports to Mexico accounted for $450,000 of business in 1991 and grew by 50 percent last year.

Mr. Speaker, it is clear that we need NAFTA because it will create jobs here in the United States of America.

THE CREATION OF A DEFICIT REDUCTION TRUST FUND

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, today I am circulating, along with my colleagues, the gentleman from Oklahoma [Mr. BREWSTER], the gentleman from Texas [Mr. EDWARDS], the gentlewoman from California [Ms. HARMAN], and the gentleman from West Virginia [Mr. WISE], a letter to all of my colleagues on this side of the aisle to join us in asking for a deficit reduction trust fund.

The idea is very simple. In the reconciliation bill that comes before us, all new taxes, as well as entitlement cuts, should go into a trust fund that must go to deficit reduction. Any new spending must come out of old spending. In that way we can assure the American people that although, yes, we are raising taxes, the money is going to go to the purpose that we all want it to go for, and that is deficit reduction.

We all know this well. I believe in government. I believe that we have to increase spending and investments in other areas, but until we get a handle on the deficit, we are not going to be able to do the kind of spending that this country needs.

So, Mr. Speaker, I urge my colleagues to look at our letter and sign on to the deficit reduction trust fund. In that way we can assure the American people that President Clinton's goal of reducing the deficit will happen, and will happen with strict and tough enforcement mechanisms.

□ 1240

ALL IS RIGHT WITH THE WORLD

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, you heard me a couple of times last week criticizing this Houses' actions in trying to retire a mentally challenged employee, Ms. Fifine, because she could not work a full day. Well, the story has a happy ending. Late last Friday I got word that the Speaker's Office had told Bob Miley that Fifine would not be let go but kept on at her job and paid only for the hours she could work. So, thanks to a lot of help from lots of good folks, an impending embarrassing wrong has been adverted and all is right with the world, especially Fifine's.

CONTINUE MORATORIUM ON NUCLEAR TESTING

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, May 18 is a historic day. Assuming the Clinton administration does not submit its report to Congress outlining its plan for obtaining a comprehensive test ban in the community of nations by this date—and it is my understanding they will not submit such a report by this date—then America will reach a remarkable milestone.

That milestone is the reality that for the first time since 1944—a period of 48 years—this Nation will not have detonated a nuclear bomb in a full calendar year. Because of various reporting requirements in current law it will be impossible to test a nuclear bomb in calendar year 1993 unless the report is filed by May 18.

What a historic occasion. For the first time in 48 years this Nation will go for a full calendar year without detonating a nuclear bomb. No nuclear explosions for 1 year.

The question this raises for President Clinton, therefore, is will he become known in history as the President who resumes this Nation's dance with death and start detonating nuclear bombs again?

Will President Clinton flip the switch and detonate nuclear bombs? What will history say about this flick of the switch?

I trust the President will give this decision the utmost consideration. This is without question one of the most important decisions he will make as President.

Were he to flip the switch, the chain reaction he would begin is not limited to the nuclear chain reaction that unleashes the single most powerful destructive force created by mankind. He will also set off another nuclear chain reaction. Other nations—France could detonate nuclear bombs again—Russia could again demonstrate its nuclear prowess. The President's flip of the switch could give the green light to China to detonate another nuclear bomb. What will Pakistan, India, and other nations with a nuclear capability do?

Today, this calendar year, we have a world pause in the detonation of nuclear bombs. Will President Clinton break the pause or will he turn the pause into a policy of cessation?

What a grand, peaceful opportunity for our new President. By not acting, by not flipping the switch he could make history. By not flipping the switch he will make peace, make the world so much safer. He will restore sanity to the world. A saneness we have not had for nearly 50 years, 50 years.

Will he flip the switch? I plead and pray he will not.

CONGRESSIONAL PAY FOR PERFORMANCE BILL

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, the time has come for Members of this body to stop talking about how they want to reduce the deficit and to do something about it. That is why I have introduced a congressional-pay-for-performance bill.

My bill indexes the salaries of Members of Congress to reductions in the

Federal deficit. For every $100 billion in the deficit, Congressional salaries would be cut by 2 percent. If we continue to spend, the percentage doubles the following year and keeps doubling until the problem is solved.

The most successful American companies tie pay to the successful performance of an objective. In this bill I link congressional salaries to this body's ability to harness the chief cause of budget deficits, uncontrollable Federal spending.

This is a great opportunity for all of us who have had so much to say about deficits to make a personal contribution to bringing discipline to the congressional budget process.

Mr. Speaker, I ask Members to please sign on to the bill. I ask constituents to encourage their Representative to get on board.

END NUCLEAR TESTING

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, the issue of nuclear testing has been debated in Congress for many years. Last year on two separate occasions, the House adopted, overwhelmingly, legislation to impose a moratorium on U.S. nuclear weapons testing.

This legislation calls for an end to U.S. nuclear weapons testing after September 30, 1996. We must remain committed to this date and a final end of a U.S. nuclear testing if other nations refrain also from testing. Any recommendations to continue nuclear testing beyond 1996 clearly are not consistent with the law. Additionally, I believe this sends the wrong message to the international community and particularly nations who may consider the nuclear option, now in the future. Specifically, continued U.S. nuclear weapons testing threatens the extension of the Non-Proliferation Treaty which expires in 1995.

It is very important that we are supportive of an end to nuclear testing and a comprehensive test ban. The United States must maintain its leadership and lead the world away from nuclear threats. I am confident that the American people share this goal.

TELEVISION TAX INCREASE HEARINGS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, it is, I think, very disturbing to have the Democratic leadership decide to write the tax bill in secret in the Committee on Ways and Means. It seems to me the American people deserve to be able to see live on C-SPAN what their Representatives are doing to raise their taxes.

The people who are going to pay the energy tax, senior citizens who are going to pay the Social Security tax, all the people who are going to be affected by the restaurant tax, and people who are going to be affected in small business and agriculture by the tax increases on their rates, all of these folks, it seems to me, have a right to see their Representatives raising their taxes.

I think it is wrong for the House Democrats to decide to close the meeting, to not allow the public to watch, and I urge the Democratic leadership to open up the Committee on Ways and Means and let the public watch the tax increasing process.

ASKING THE WRONG QUESTIONS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, status quo politicians and the media elite often ask the wrong questions—which explains why they so often have the wrong answers. In today's Washington Post we read editorial musings on who should be taxed and how. If not an energy tax, it reads, how about a value added tax? The editorial criticizes those who oppose any new taxes for failing to provide a positive alternative that will cut the deficit. It appears the Washington Post is a victim of the incredible dissembling going on among the tax-and-spenders in Washington. There are specific proposals to cut hundreds of billions of dollars in wasteful and low-priority spending. I provided one, the minority on the Budget Committee provided one, and so on. Not only were those specifics given directly to the President, but they appeared on the pages of the Washington Post. While the President reads his mail, the writers at the Post should read their own newspaper. Then maybe they will ask the right questions and get the right answers about cutting spending first.

NAEP ASSESSMENTS FOR FISCAL YEAR 1994

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 801) to authorize the conduct and development of NAEP assessments for fiscal year 1994, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Michigan?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I do not object, but I take this time to have the subcommittee chairman explain the legislation.

Mr. KILDEE. Mr. Speaker, if the gentleman will yield, this bill addresses a very urgent issue. It provides directly needed authority for the Department of Education to prepare for and administer State assessments in fiscal year 1994 under the national assessment of educational progress.

As recommended by the National Academy of Education, this bill authorizes the extension of these State assessments on a trial basis and requires that they be thoroughly evaluated.

The administration strongly urges the swift enactment of this bill. I know of no objection to it, other than the perfunctory one, and I urge its passage.

Mr. GOODLING. Mr. Speaker, reclaiming my time, these amendments are well thought out and continue the ongoing evaluation of this effort by the National Academy of Education.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e-1) is amended—

(1) in paragraph (1) of subsection (f), by striking "and 1993" and inserting "1993, and 1994"; and

(2) in subparagraph (C) of subsection (i)(2)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;

(B) by inserting after clause (ii) the following new clause:

"(iii) The National Assessment shall—

"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades, and a trial reading assessment for the 4th grade, in States that wish to participate, with the purpose of determining whether such assessments yield valid and reliable State representative data;

"(II) develop a trial mathematics assessment for the 12th grade, and a trial reading assessment for the 8th and 12th grades, to be administered in 1994 in States that wish to participate, with the purpose of determining whether such assessments yield valid and reliable State representative data; and

"(III) include in each such sample assessment described in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(C) in clause (vi) (as redesignated by subparagraph (A)), by striking "paragraph (C) (i) and (ii)" and inserting "clauses (i), (ii) and (iii)".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 801, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

□ 1250

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1308) to protect the free exercise of religion.

The Clerk read as follows:

H.R. 1308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Freedom Restoration Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds—

(1) the framers of the American Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not burden religious exercise without compelling justification;

(4) in Employment Division of Oregon v. Smith the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test as set forth in Sherbert v. Verner and Wisconsin v. Yoder is a workable test for striking sensible balances between religious liberty and competing governmental interests.

(b) PURPOSES.—The purposes of this Act are—

(1) to restore the compelling interest test as set forth in Federal court cases before Employment Division of Oregon v. Smith and to guarantee its application in all cases where free exercise of religion is burdened; and

(2) to provide a claim or defense to persons whose religions exercise is burdened by government.

SEC. 3. FREE EXERCISE OF RELIGION PROTECTED.

(a) IN GENERAL.—Government shall not burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION.—Government may burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) furthers a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) JUDICIAL RELIEF.—A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

SEC. 4. ATTORNEYS FEES.

(a) JUDICIAL PROCEEDINGS.—Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) is amended by inserting "the Religious Freedom Restoration Act of 1993," before "or title VI of the Civil Rights Act of 1964".

(b) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(C) of title 5, United States Code, is amended—

(1) by striking "and" and at the end of clause (ii);

(2) by striking the semicolon at the end of clause (iii) and inserting "; and"; and

(3) by inserting "(iv) the Religious Freedom Restoration Act of 1993" after clause (iii).

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a "State" or a subdivision of a State;

(2) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term "exercise of religion" means exercise of religion under the first article of amendment to the Constitution of the United States.

SEC. 6. APPLICABILITY.

(a) IN GENERAL.—This Act applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this Act.

(b) RULE OF CONSTRUCTION.—Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act.

(c) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.

(a) IN GENERAL.—Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion. Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause of the First Amendment, shall not constitute a violation of this Act.

(b) DEFINITION.—As used in this section, the term "granting government funding, benefits, or exemptions" does not include a denial of government funding, benefits, or exemptions.

The SPEAKER pro tempore. (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1308, the Religious Freedom Restoration Act of 1993, reflects a commitment to one of our most cherished freedoms—the right to practice one's faith without undue interference at the hands of the Government. It will restore the standard for addressing claims under the free exercise clause of the first amendment as it was prior to the Supreme Court's Smith decision in 1990. Under longstanding constitutional principles, any governmental burden on the free exercise of religion was subject to the strictest test of constitutional scrutiny. In order to satisfy the free exercise clause, Government had to demonstrate that it had a compelling State interest in burdening the free exercise of religion and that it used the least restrictive means of furthering that interest.

In Smith, the Supreme Court abandoned the compelling State interest test in favor of a much weaker standard of review. H.R. 1308 statutorily reinstates the strict test that was in place prior to Smith.

The Supreme Court's decision 3 years ago transformed a most hallowed liberty into a mundane concept with little more status than a fishing license—thus subjecting religious freedom to the whims of Government officials. That, indeed, has been the sorry legacy of the Court's view of this matter. Passage of this legislation is the only means to restore substance to the constitutional guarantee of religious freedom.

I commend Mr. EDWARDS of California, chairman of the Subcommittee on Civil and Constitutional Rights, for his steadfast dedication to religious freedom, and Mr. HYDE, the ranking member on the subcommittee, who was instrumental in ensuring the remarkable breadth of support for the bill. I also congratulate Mr. SCHUMER, who introduced the legislation and has guided it well.

Finally, I want to note the unprecedented coalition of religious denominations and civil rights groups who have

united to stand up for the liberty given meaning by this bill. I am proud of how such marvelous diversity was united by a shared view of the place and role of religion in our society. I urge the approval of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished ranking Republican on the Committee on the Judiciary, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the ability of men and women of faith to freely practice their religion as guaranteed by the first amendment was seriously threatened by the 1990 decision of the U.S. Supreme Court in Employment Services Division versus Smith. In response to the Smith decision, a broad and unprecedented coalition of religious groups including the American Jewish Congress, the Church of Jesus Christ of Latter-day Saints, the Christian Life Commission of the Southern Baptist Convention, and the National Council of Churches have come together to support enactment of the Religious Freedom Restoration Act.

In Smith, the U.S. Supreme Court abandoned the compelling State interest test which had been applied by the Supreme Court and lower Federal courts for almost 30 years. Prior to Smith, Government actions which hindered religious practices were required to be justified by a compelling interest, that is, an interest of the highest order. As a result of Smith, Government actions which impede religious worship or other legitimate religious activities now need only be rationally related to a legitimate governmental interest—a far weaker constitutional standard. Even long established religions have expressed grave concerns over this loss of constitutional protection.

Since Smith was decided in 1990, individuals seeking to practice their religion, unhampered by Government action, have largely been without recourse. The Religious Freedom Restoration Act will provide them with a means to challenge Government regulations which unnecessarily burden the free exercise of religion.

The legislation will guarantee that all Americans, regardless of their particular creed or oath, are able to enjoy the right to worship and practice their faith, from unnecessary Government intrusion.

Mr. Speaker, I urge my colleagues to support this legislation. I congratulate my colleagues on the Committee on the Judiciary for bringing us this legislation today.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, this has been a long and arduous task to be able to come today before this body and ask for the enactment of the Religious Freedom Restoration Act of 1993.

As my chairman explained, it was an unfortunate decision of the Supreme Court in 1990 that put religious freedom in jeopardy in our country.

Our former Member, Steve Solarz of New York, introduced the original bill about 3 years ago. And ever since then, we have been working on it.

We are grateful to the gentleman from New York [Mr. SCHUMER] and to our colleague, the gentleman from California [Mr. COX] for introducing the bill again this year and helping us negotiate with the various parties so we could have virtual unanimity.

Of course, I thank the gentleman from Illinois [Mr. HYDE], who has been splendid in helping to reconcile the various differences, and the differences were real, and the other members of the subcommittee, including the gentleman who will speak, the gentleman from New York [Mr. NADLER], and the splendid minority and majority staffs.

This is a very, very important bill. People say, "Well, why is it so important?"

Let me just point out things that have happened that violate religious freedom, since the 1990 Smith decision.

Autopsies have been unnecessarily and wrongly performed upon the Hmong and Jewish deceased in violation of strong religious feelings that autopsies should not be performed.

For example, the Amish in Minnesota. It is an important part of their religious freedom that their buggies—we have seen them, Mr. Speaker, the buggies of the Amish, driving along the country roads—be very plain. That has religious significance to the Amish.

And yet the State of Minnesota, I believe, or maybe it was the local ordinance, required the Amish to put a light on the buggies, a fluorescent light, in violation of the religious freedom of the Amish people. And they had to finally seek State help, the State constitution, to rescue them from this violation.

And so here is another case. I think it is important to see the examples of why this bill is needed. A Federal investigator was fired because it was against his religion to do a certain investigation of a pacifist group.

And so certainly, there is no peril to the Government. It was a violation of his religious freedom, and this bill would not allow outrages like this to happen.

The right to free exercise of religion is the first constitutional protection enumerated in the Bill of Rights. Despite this clear constitutional mandate, the United States has a troubling history of unintentionally undermining religious practices. However, since the Supreme Court's 1963 decision in Sherbert versus Verner, the courts have protected religious exercise unless the Government could articulate a compelling reason to do otherwise. It was not until the Supreme Court's April 1990 decision in Oregon versus Smith, that the first amendment's guarantee of free exercise of religion was seriously threatened.

The Smith case is important because the Court, without being asked by either litigant, lowered the standard under which free exercise claims are reviewed. By invoking a new, low-level standard of review for these claims, the Court removed an important barrier to the very real, though unintentional, burdening of religion.

The Religious Freedom Restoration Act of 1993 simply restores the compelling governmental interest test. This test has never meant, nor will it ever mean that religious claimants will always win their cases. Rather, it gives those who successfully assert a burden on their exercise of religion a chance to protect that religious practice.

I, as many Members on both sides of the aisle, believe the passage of the Religious Freedom Restoration Act is the right thing to do. I would also like to thank the coalition of secular and religious organizations supporting this legislation. The coalition represents the diversity of the American population and is symbolic of the wide range of interests the Constitution seeks to protect. I would like to specifically express my gratitude to Oliver Thomas, Rabbi David Saperstein, Forest Montgomery, Elliot Minceburg, Robert Peck, and Judy Golub.

I urge you to vote for this important piece of legislation.

□ 1300

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think accolades are certainly due to the chairman of the full committee, the gentleman from Texas, JACK BROOKS, and the chairman of the subcommittee, the gentleman from California, DON EDWARDS, who helped get this bill to the point where it can be passed today over many difficult compromises and discussions, but their patience and their intelligence and their good will paid off.

I should mention Melody Barnes and Alan Erenbaum, counsel, who spent many hours working with our counsel, Kathryn Hazeem, in resolving the many difficulties inherent in this bill.

The Religious Freedom Restoration Act will overturn the 1990 decision of the U.S. Supreme Court in Employment Division versus Smith. Smith held that neutral laws of general application that incidentally burden religious exercise do not violate the free exercise clause of the first amendment to the U.S. Constitution.

H.R. 1308 will replicate the compelling State interest test for the adjudication of free exercise claims which was in place prior to the Supreme Court's decision in Smith.

When this legislation was considered by the Subcommittee on Civil and Constitutional Rights and the full Judiciary Committee in the 102d Congress, I offered several amendments. These

amendments were designed to address concerns I had with respect to abortion-related claims, third-party challenges to church-run social service programs, and challenges to the tax-exempt status of religious institutions. Since that time, my concerns have been resolved either through explicit statutory changes or through committee report language.

A major issue of contention in the 102d Congress was whether the bill was a true restoration of the law as it existed prior to Smith or whether it sought to impose a more stringent statutory standard. Of course, the label restoration is inappropriate in this context since the Congress writes laws—it does not and cannot overrule the Supreme Court's interpretation of the Constitution. We are unable to restore a prior interpretation of the first amendment. H.R. 1308 is a proposed Federal statute and its meaning will be determined by its plain language and, to some extent, by the intent of Congress in enacting it.

Several changes were made to the bill during the Judiciary Committee markup in late September 1992 and prior to the bill's introduction in the 103d Congress. These changes make clear that the statutory standard of the Religious Freedom Restoration Act is the same free exercise standard that was applied by the U.S. Supreme Court prior to Smith.

The intended standard of the bill was of particular concern to me in the area of abortion rights. I have been deeply concerned that the Religious Freedom Restoration Act would create an independent statutory basis to challenge abortion restrictions that does not exist under current law. The bill now clearly imposes a statutory standard that is to be interpreted as incorporating all Federal court cases prior to Smith. The one successful district court free exercise challenge to an abortion funding restriction prior to Smith was rejected by the U.S. Supreme Court in *Harris* v. *McRae*, 448 U.S. 297 (1980). In that case the Court stated that none of the parties had standing to sue because "none had alleged, much less proved, that she sought an abortion under compulsion of religious belief." Because free exercise challenges to abortion restrictions were ultimately unsuccessful prior to Smith, I am confident that although such claims may be brought pursuant to the Act, they will be unsuccessful.

Individuals seeking to challenge abortion restrictions should not look to the Religious Freedom Restoration Act, but to Planned Parenthood versus Casey which describes how claims pertaining to abortion are resolved. We want to make it absolutely clear that this bill does not expand, contract, or alter the ability of a claimant to obtain relief in a manner consistent with the Supreme Court's free exercise jurisprudence prior to Smith.

Language has also been added to resolve concerns about application of the act to social service programs operated by religious institutions with public funds and possible challenges to the tax-exempt status of religious institutions. The new language, found in section 7 of the bill, makes clear that such claims are not the appropriate subject of litigation under the Religious Freedom Restoration Act.

The changes made to the bill as introduced in the 103d Congress make clear that the Religious Freedom Restoration Act is not seeking to impose a new and strengthened compelling State interest standard, but is seeking to replicate, by statute, the same free exercise test that was applied prior to Smith.

In conclusion, the Religious Freedom Restoration Act will not guarantee that religious claimants bringing free exercise challenges will win, but only that they have a chance to fight.

Mr. Speaker, I wonder if I might engage the gentleman from New Jersey [Mr. HUGHES] in a colloquy.

Mr. Speaker, I would ask the gentleman, it is my understanding that prior to 1987 many courts evaluated free exercise challenges by prisoners under the compelling governmental interest test. The courts considered not only the exercise of religion, but also the difficulty of the prison officials' task of maintaining order and protecting the safety of prison employees, visitors, and inmates. Is it the gentleman's understanding that challenges of prison regulations were generally not successful, even under a strict scrutiny standard of review?

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding to me. Mr. Speaker, that is also my understanding, I might say to my colleague. Religious liberty claims in a prison context present far different problems for the operation of those institutions than they do in civilian settings. Ensuring the safety and orderliness of prisons has repeatedly been recognized as a compelling governmental interest.

Mr. HYDE. I ask the gentleman, is there anything in this bill that would somehow make courts less likely to find that a State has a compelling interest in maintaining order and discipline in its correctional facilities?

Mr. HUGHES. Mr. Speaker, if the gentleman will continue to yield, there is absolutely nothing in this bill which suggests that courts should not view prison regulation as a governmental interest of the highest order, which has always been the case.

Mr. HYDE. Mr. Speaker, I certainly thank the gentleman, and I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my purpose to discuss the effect of H.R. 1308 on prison administration, and I will include for the RECORD a letter from the Attorney General, Janet Reno, addressing the matter and urging support for the bill as ordered reported by the committee.

Mr. Speaker, I want to address any concerns Members might have about the effect of this important legislation on the administration of Federal and State prisons. In evaluating claims of prisoners under the free exercise clause, courts have always considered the difficulty of the prison officials' task of maintaining order and protecting the safety of prison employees, visitors, and inmates. This will continue to be the case under this bill.

Restoring the strict scrutiny standard of review in prison cases by no means indicates that prisoners will prevail any more frequently than they have in the past. First of all, a threshold consideration for a free exercise claim is that the religious beliefs are sincerely held—and prisoner suits are often thrown out of court on a finding that the supposed beliefs are really manufactured pretexts. Second, many prison regulations have been found to impose only an incidental burden on a prisoner's ability to practice his or her religion—a finding which would preclude a claim under this bill.

Third, religious liberty claims in prison settings pose far more serious problems for the operation of those institutions than they do in civilian settings. Ensuring the safety and orderliness of prison institutions has been recognized as a governmental interest of the highest order, and this is unaffected under the bill.

Mr. Speaker, the Nation's chief law enforcement officer, Attorney General Janet Reno, has also looked at this question, and has come to the conclusion that the provisions of the Religious Freedom Restoration Act are compatible with the safe, effective, and efficient administration of our prison system. In a letter to me today, she stated that:

> Concerns have been expressed that the standard of review of H.R. 1308 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the committee to approve the bill without amendment.

Under leave to include extraneous matter, I am including Attorney General Reno's letter in the RECORD in its entirety.

In short, prisoners challenging institutional rules based on religious exercise have prevailed only in extraordinary situations—even under a compelling governmental interest standard. This legislation presents no threat to the administration of our correctional institutions.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, May 11, 1993.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, I strongly support H.R. 1308, the Religious Freedom Restoration Act of 1993 and urge its swift enactment. The bill is designed to over-

turn *Employment Division* v. *Smith*, 110 S. Ct. 1595 (1990), which in my view, mistakenly rejected the balancing test of *Sherbert* v. *Verner*, 374 U.S. 398 (1963). According to *Sherbert*, government action that substantially burdened religious practice had to be justified by a compelling government interest. In *Smith*, however, the Court held that application of a neutral law of general applicability—even if it has the effect of burdening religious practice—does not run afoul of the Free Exercise Clause of the First Amendment. This weakening of the protection afforded one of society's most fundamental freedoms is extremely troubling and should be corrected by substituting the stronger protection afforded by H.R. 1308.

Concerns have been expressed that the standard of review of H.R. 1308 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the Committee to approve the bill without amendment.

Prior to 1987, the Supreme Court had not distinguished explicitly between the standard of review applicable to the religious claims of prisoners and those of others. In that year, for the first time, it held that a prison regulation that impinges on an inmate's right of free exercise "is valid if it is reasonably related to legitimate penological interests." *O'Lone* v. *Estate of Shabazz*, 482 U.S. 342, 349 (1987), quoting *Turner* v. *Safley*, 482 U.S. 78, 89 (1987). Thus, the Court had abandoned the compelling interest standard regarding inmate claims only a few years prior to doing so for the general population in *Smith*.

Prisons had operated under Sherbert for a number of years before *O'Lone* and *Turner* adopted a standard that is plainly less accommodating to the prisoners' exercise of religious rights. During that period, prisoners attempted to gain privileges based on fabricated free exercise claims. Not surprisingly, those types of claims have continued even under the standard of *O'Lone* and *Turner*. They will doubtless continue whether H.R. 1308 becomes law or not.

In my view the four dissenters in *O'Lone* had the better of the argument. They would have required prison administrators to demonstrate that the restrictions imposed in the case—preventing certain Muslims from attending a religious service central to their faith—furthered a compelling government interest and were no greater then necessary to achieve legitimate penological objectives. This standard parallels that incorporated in H.R. 1308.

Certainly, the strong interest that prison administrators and society in general have in preserving security, order, and discipline in prison will receive great weight in the determination whether the government meets the compelling interest test when there is a claim that exercise of religious rights is burdened and whether it has pursued the least restrictive means of doing so. Activities that are presumptively dangerous or carry a demonstrable likelihood of jeopardizing discipline within a prison will continue to be subject to regulation after enactment of H.R. 1308.

Likewise, prison administrators will retain authority, in many instances, to regulate the time, place, and manner of an inmate's exercise of religion. Restrictions that do not deny inmates the opportunity to engage in otherwise permissible religious practice, but merely require them to pursue such activities within the context of prison life, likely will not substantially burden inmates' free exercise rights and will be permissible.

I, therefore, strongly urge the Committee to approve H.R. 1308 without amendment.

Sincerely,

JANET RENO.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the Religious Freedom Restoration Act. It is a good bill. I urge my colleagues to support it.

Mr. Speaker, today, the House is considering the Religious Freedom Restoration Act. This bill is intended to ensure that governmental regulations and laws do not unduly interfere with the freedom to practice one's choice of religion in this country.

For many years, the Supreme Court evaluated governmental actions with respect to religious practices on the basis of whether the governmental entity had a compelling State interest in imposing on the religious practice. Unfortunately, this strict standard was abandoned by the U.S. Supreme Court in a 1990 decision.

For the past 3 years, a large number of groups have worked together to respond to that decision. Their efforts have resulted in a narrowly drawn bill being considered today which is intended to restore the standard of review in religious cases to that of a compelling interest. This bill has wide support on a bipartisan basis.

There are now last minute claims that passage of this legislation would create a severe problem for prison officials in their ability to control and manage prison institutions. If a compelling interest has to be established, the opponents argue that they will never be able to justify control of certain religious practices.

This fear is unfounded, as Attorney General Janet Reno has noted in her letter to the chairman of the Judiciary Committee dated today. Prior to 1990, there was no significant problem experienced by prison systems in providing that a State's correctional policy was justified under a compelling State interest. Under this legislation, that same conclusion would prevail. The applicable standard would still ensure that State and Federal prison officials would be able to guarantee the safety and security of prisons while permitting the practice of religion as guaranteed under the U.S. Constitution.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it was interesting to hear the gentleman from California [Mr. EDWARDS] allude to the Amish in Pennsylvania as a prime example of the efficacy of the law which we are about to pass. He is absolutely correct. As a matter of fact, the Commonwealth of Pennsylvania was founded by William Penn, who, with his Quaker background and with all the rationale that existed at that time in his sect in England, was the basic reason that they came to the shores of our country in the first place. The entire Commonwealth is steeped in the tradition of religious freedom, stemming from its first charter.

Today, in Lancaster County, where Mr. WALKER and I share a constituency, the remnants of those particular plain sects to which the gentleman from California alluded are thriving, and everyone seeks in various ways to make sure that their ultimate right to practice their religion is protected.

I support the legislation, and say, as a matter of record, that in my district, and I am sure it is true in every one of the districts of the Members here, the diversity of our citizenship is not more clearly reflected than in the religious diversity in the community. One need only have to go through one's district and look at the different churches or houses of worship of the various denominations and recognize the fulsome diversity that exists, without ever having to study the demographics of a particular district.

We are sanctifying today that diversity and religious freedom, and we urge the passage of this legislation.

□ 1310

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I rise in support of the Religious Freedom Restoration Act. This landmark legislation will overturn the Supreme Court's disastrous decision, Employment Division versus Smith, which virtually eliminated the first amendment's protection of the free exercise of religion.

As the Representative of one of the most religiously diverse congressional districts in the country, I believe that this legislation must be given top priority. In the communities I represent, Jews from Syria, the former Soviet Union and Iran live alongside Catholics from Ireland, Italy, and Latin America, Evangelical Christians and Baptists and many others.

What has made the American experiment work—what has saved us from the poisonous hatreds that are consuming other nations—has been a tolerance and a respect for diversity enshrined in the freedom of religion clauses of our Bill of Rights. It was no accident that the Framers of our Bill of Rights chose to place the free exercise of religion first among our fundamental freedoms. This House should do no less.

Unless the Smith decision is overturned through the speedy enactment of the Religious Freedom Restoration Act, the fundamental religious rights of all Americans, to keep the Sabbath, to use wine in religious ceremonies, to observe religious dietary laws, to be free from unnecessary autopsies, to worship as their consciences dictate—will remain threatened.

Indeed, even Justice Scalia, writing for the majority in Smith, acknowledged that "[i]t may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in." Our experience in the 3 years since Smith has demonstrated that religious minorities—and even majority religions—have been placed at a tremendous disadvantage. The rights of religious Americans in every State have been violated as a result of this decision.

If there is a shared American value it is the commitment to religious liberty. The American people have waited long enough for the restoration of their first freedom. I urge my colleagues to vote for the Religious Freedom Restoration Act.

Mr. Speaker, I thank the chairman of the subcommittee and the full committee and the ranking minority members for their diligence in bringing this legislation to the floor.

Mr. GEKAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time and for his support of this important measure. And I also compliment the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Judiciary Committee, and the gentleman from New York for their support of this truly bipartisan measure.

Mr. Speaker, "Congress shall make no law * * * prohibiting the free exercise of religion." We have all heard and read these words in the first amendment. Unfortunately, the U.S. Supreme Court has allowed serious erosion of this right.

For over 200 years every family or individual who has lived in our great Nation has been free to follow their religious beliefs without threat of Government interference because of this first amendment protection. However, since the Oregon Employment Division versus Smith ruling, over 50 court cases have been decided against religious groups or individuals acting upon their religious beliefs.

Clearly this situation must be reversed. That is why I urge support of the Religious Freedom Restoration Act, which would restore higher constitutional protection for our religious liberty.

Included in the broad and diverse coalition supporting this important bill are the United Methodist Church, the National Association of Evangelicals, the American Jewish Congress, Presbyterian Church U.S.A., United Church of Christ, American Association of Christian Schools, Episcopal Church, Church of the Brethren, and 50 other diverse organizations representing nearly every major religious organization in the country.

The deeply held desire to worship their God free of government intrusion drove the Pilgrims in small wooden boats across the dangerous Atlantic Ocean and to a hostile wilderness of the New World almost four centuries ago. Their courage, convictions, and tenacity, coupled with the blessings of God, allowed them to help create the greatest country on Earth. We owe it to our heritage and to our children and grandchildren to protect these religious freedoms won at such great cost.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Mr. Speaker, as the lead sponsor of the Religious Freedom Restoration Act, along with the gentleman from California [Mr. COX], I want to thank Chairman EDWARDS for his work on this bill and support in bringing the bill to the House today. I also want to thank and give special mention to the efforts of Steve Solarz, who originally introduced this bill in the 101st Congress, and his support for religious freedom first brought this issue to the Congress.

As we all know, the first amendment guarantees the right of free exercise of religion, and traditionally the Supreme Court interpreted that guarantee to mean religious freedom can be infringed only when Government has a compelling interest to do so. And this was sort of an exquisite balance, one of the times that it works out almost just right in Anglo-Saxon jurisprudence when the Government really had a compelling interest. Yes, they could infringe on religion, and when they did not we would let the religious issue predominate, and it made eminent sense. It was working admirably well.

But in 1990, in the infamous case known as the Smith case, the Supreme Court changed the standard radically and said that the Government only had to show a legitimate interest in order to burden religion, unless the religious practitioners could show they were directly targeted for persecution. In my opinion, that decision rubbed against totally the American grain of allowing maximum religious freedom. Of course when the Government had a compelling interest, that is where it should stop. But up to that point, why not let religious freedom bloom?

But, incomprehensibly, Justice Scalia's decision explained that requiring the Government to accommodate religious practice was a luxury. Tell to millions and millions of Americans that religion is a luxury, and I think we get the reaction that we have had universally here on the floor from the most liberal to the most conservative Member.

Smith was a devastating blow to religious freedom, and we are trying to undo it. Under Smith, the practice of using sacramental wine, wearing a yarmulke, Kosher slaughter, and many other religious practices all could be jeopardized.

The parade of horribles had already begun. In the 3 years since the case, evangelical store-front churches have been zoned out of commercial areas and Orthodox Jews and the H'mong people have been subjected to autopsies in violation of their religious faiths.

Quite simply, we cannot allow this to continue. The Founders of our Nation, the American people today know that religious freedom is no luxury, but is a basic right of a free people.

The bill will restore the first amendment to its proper place as one of the cornerstones of our democracy. It is simple. It states that the Government can infringe on religious practice only if there is a compelling interest and if the restriction is narrowly tailored to further that interest.

I want to thank everyone for their broad and bipartisan support, the dozens of religious groups from across the spectrum, the Agudath Israel of American, the Baptist Joint Committee, the National Association of Evangelicals, and the National Religious Action Committee, as well as President Clinton and the Attorney General for their support of this bill. I urge my colleagues to join me today as we strike a blow for religious freedom. We should vote to restore one of this country's cherished traditions by voting for the Religious Freedom Restoration Act.

Mr. GEKAS. Mr. Speaker, I yield such time as he might consume to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I am delighted that the Religious Freedom Restoration Act has reached the House floor today, and I look forward to joining my colleagues in restoring the traditional protections for religious liberty guaranteed in the first amendment of our Constitution.

In response to the Smith case, my constituents, in the Fourth District of Georgia, expressed to me the negative impact that this case has had—and will have—on their first amendment rights. We must protect the religious rights of our citizens, and it was for these reasons that I joined as an original cosponsor of this legislation. Our Founding Fathers created a document that would last through the ages, and this act is our opportunity to assure that the protection of free religious exercise remains an inalienable right for persons of all religious faiths.

This act does not create special protections for any particular religion. This act does not mean that religious claims in court will succeed at all times. The Religious Freedom Restoration Act simply states that the Government may not regulate the religious practices of its citizens unless the Government demonstrates that there is a compelling interest, and the Government action is the least restrictive means of furthering that interest.

While generations of Americans have been indebted to our Founding Fathers because they had the wisdom to protect the free exercise of religion in the first amendment, today, we are thankful that they also had the foresight to entrust the legislative branch of the United States with the power to protect the rights and liberties that we, as Americans, enjoy. Today, we have the opportunity to fulfill our constitutional duty to protect this cherished right for ourselves and our posterity.

□ 1320

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. HOYER], a member of the Committee on Appropriations and chairman of the Democratic caucus.

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding this time to me.

I commend the chairman, the gentleman from Texas [Mr. BROOKS], the gentleman from California, [Mr. EDWARDS], and the ranking member of the committee for their action on this bill.

Mr. Speaker, to restore freedom is always timely, to restore in particular the rights that Americans hold so sacred under the first amendment and in particular the right to practice their religion as they see fit.

Mr. Speaker, after all, it was that right that was hallmark to the founding of this country, and it was that right that in many respects made us unique in the world.

Mr. Speaker, in Maryland we have the Religious Toleration Act of 1648, one of the first enunciations in our Nation that the practice of religion ought to be unfettered by Government, except if there is a compelling reason.

I want to say to our former colleague, the gentleman from New York, Mr. Steve Solarz, who led the fight for this early on, that his efforts will be realized today as will the efforts of Chairman BROOKS, the gentleman from New York [Mr. SCHUMER], and others. This is a bill whose time not only has come but was for many years prior to the Smith decision.

In my prepared remarks I call this one of, and some would say it is, the most important bill affecting religious liberty in our lifetime. That is an expansive statement, but I think it correctly enunciates the impact of this bill. It is appropriate, Mr. Speaker, that we restore this sacred right for every American.

I am pleased to rise in strong support of this legislation.

Mr. Speaker, I rise today in very strong support of H.R. 1308, the Religious Freedom Restoration Act. I would like to thank and commend the chairman of the Subcommittee on Civil and Constitutional Rights [Mr. EDWARDS], for his tireless work on this bill and the chairman of the Judiciary Committee [Mr. BROOKS], for expeditiously bringing this bill to the floor for consideration.

H.R. 1308 is one of the most important bills affecting religious liberty in our lifetime. The Religious Freedom Restoration Act will restore the traditional requirement that Government demonstrate a compelling interest before restricting religious practices. That requirement was scrapped by the Supreme Court in the Employment Division of Oregon versus Smith case, when the Court held that Government actions can burden a person's exercise of religion as long as the Government had a legitimate purpose and are not aimed at suppressing religion. This ruling did great mischief to the rights of all Americans. Religious liberty was no longer a fundamental constitutional right.

Since Smith, more than 50 cases have been decided against religious claimants. Amish farmers have been forced to affix garish warning signs to their buggies, despite expert testimony that more modest silver reflector tape would be sufficient. Orthodox Jews have been subjected to unnecessary autopsies in violation of their family's religious faith and one Catholic teaching hospital lost its accreditation for refusing to provide abortion services. Evangelical churches have been zoned out of commercial districts in some cities prompting a Minnesota trial judge to remark that churches have no more constitutional rights than adult movies theaters.

Today Mr. Speaker, we have an opportunity to correct these injustices. We can restore the Nation's first amendment and religious liberty to its rightful preeminence.

I want to thank the President and the Attorney General for their support. And, I commend the coalition for the free exercise or religion—the 60 religious and civil liberties groups—for their willingness to lay aside their political agendas in order to unite in a common vision for the common good—religious liberty for all Americans.

I urge all my colleagues to support this legislation.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON] a leader of the Mormon community.

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as an original cosponsor of H.R. 1308, I urge my colleagues to join me in reaffirmation of the first amendment by the passage of this legislation.

Mr. Speaker, I rise today in support of H.R. 1308, the Religious Freedom Restoration Act. The U.S. Supreme Court seriously eroded the first amendment guarantee of freedom of religion when, in Employment Division versus Smith 1990, they abandoned the compelling government interest test on all Government action burdening a person's exercise of his or her religion. Although it would be preferential for the Supreme Court to reverse the Smith case and restore the full constitutional dimensions of the first amendment protection of freedom of religion, I believe that this statutory restoration of the compelling governmental interest standard is both a legitimate and a necessary response by Congress to the degradation of religious freedom resulting from the ruling in the Smith case.

Freedom of religion is one of the most fundamental truths upon which this great Nation was established. I am a member of a church whose people were once cruelly persecuted and I remember the anguish of my ancestors who were driven from their homes because the Government of this Nation condoned oppression.

Last year during testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights Elder Dallin H. Oaks, apostle of the Church of Jesus Christ of Latter Day Saints, could not have stated it more clearly when he said:

> The conflict between individual rights to freely worship God and Government attempts to regulate or interfere with religious practices remains today. For decades the United States Supreme Court adhered to the first amendment guarantee of free exercise by requiring the State to demonstrate a compelling governmental interest before interference with religious freedom would be tolerated. This test struck an appropriate balance between the needs of Government to establish rules for the orderly governance of our society and the rights of citizens not to be unduly restricted in their religious practices. In those instances where elected officials approved laws which interfered with a specific religious practice, they had to sustain the burden of justifying their action by identifying a compelling government reason or interest for doing so * * * the compelling governmental interest test provided an essential protection for the free exercise of religion. Such protection is vital. There is nothing more private or personal than the relationship of an individual to his or her God. There is nothing more sacred to a religious person than the service or worship of God * * * if past is prolog, the forces of local, State and Federal governmental power, now freed from the compelling governmental interest test, will increasingly interfere with the free exercise of religion. We fear that the end result will be a serious diminution of the religious freedom guaranteed by the United States Constitution * * * the Bill of Rights protects principles, not constituencies. The worshippers who need its protections are the oppressed minorities, not the influential constituent elements of the majority.

I urge my colleagues to support H.R. 1308 and join me in reaffirmation of the first amendment. Freedom to worship God according to the dictates of one's own conscience is still a fundamental right of our society.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Speaker, I thank the chairman for yielding this time to me.

Mr. Speaker, today I rise in strong support of H.R. 1308, the Religious

Freedom Restoration Act. This act merely seeks to reflect what had been the constitutional standard prior to the ruling in Employment Division versus Smith. Justice Sandra Day O'Connor stated in her concurring opinion that "Today's holding dramatically departs from well-settled first amendment jurisprudence, and is incompatible with our Nation's fundamental commitment to individual religious liberty." Mr. Speaker, I agree and would encourage my colleagues to reverse this ill advised decision by supporting the tenet contained in H.R. 1308, that only a compelling State interest should justify the denial of the free exercise of one's religion. If the first amendment means anything at all, it means the freedom to believe and the freedom to worship. To deny a citizen the right to practice his religion, the State should have nothing less than a compelling interest in doing so.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the chairman for yielding this time to me.

Mr. Speaker, I want to credit the Committee on the Judiciary, led by the gentleman from Texas [Mr. BROOKS] for their work on the measure before the House.

Mr. Speaker, I think this is an opportunity, to reaffirm our support for the Constitution, and the religious freedom that is inherent in the Bill of Rights, and the practices and laws of our country for the past 200 years.

I think that most of us who are yet students of law—not lawyers—obviously understand the dynamic nature of the court decision process. Today the balance is tipped against the exercise of religion and especially against those that need the protection of our Constitution and our laws, those that are minorities in our society, either ethnically, as my colleagues mentioned, the native Americans groups, the Hmong a significant population that I represent in St. Paul, MN, a significant Southeastern Asian population, or other ethnic groups, and/or other minority religious groups such as the groups to whom we have referred, whether they are people who practice the Jewish faith, Mormons or the many other religious groups that exist in our Nation.

Frankly, as we look at that challenge for us as a nation in writing law and establishing policy government interference really should have overwhelming justification. Today that is not the case. The balance is restored in the measure before the House by making the test by a compelling interest and as to the least restrictive means of attaining the Government's objective with regard to law. I hope that this balance will be restored with this change. I am pleased to note that my colleagues in the Congress have acted with great sensitivity and conscientious effort to try to make sure that our laws are evenhanded, especially as it affects this cherished right of religious freedom.

I urge my colleagues to join the Committee on the Judiciary and the lead sponsor, CHUCK SCHUMER, and other cosponsors such as myself in supporting this meritorious measure.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, one of the fundamental freedoms on which our Nation was founded is in jeopardy. The religious liberties which were a driving force behind the formation of this Nation have been seriously eroded by the court ruling in Oregon versus Smith and subsequent cases. Only enactment of the Religious Freedom Restoration Act can repair the damage done and give Americans confidence that their right to observe their own religious beliefs is secure.

Throughout our history, America has always been a haven for those who have feared religious persecution. At the time of the establishment of the American colonies, there was no country in Europe without a state church, and unity of religion was considered essential to the unity of the state. Those whose faiths differed from the officially designated religion were prevented from practicing their own religious and observing their own spiritual beliefs.

But in the United States, we have always cherished our religious liberties. The freedom to practice one's religious beliefs is enshrined in the first amendment to our Constitution, and it is experienced every day in the diversity of our society. Indeed, our goal in setting public policy has and must always be to accommodate religious diversity to the maximum extent possible. To do otherwise would be to abandon our heritage and to turn our Constitution on its head.

But the Supreme Court of the United States in Oregon versus Smith found that States do not have to show a compelling interest in restricting a religious practice. After two centuries of commitment to the protections of religious freedom and understanding that true freedom of religion can only be possible if we are willing to go the extra mile to respect the beliefs of others, this decision and others have undermined the willingness to accommodate the religious beliefs of others.

In Michigan, an autopsy was performed on the body of an orthodox man because State law there requires autopsies for all violent deaths. His orthodox faith prohibits autopsies and there was no mystery surrounding his death. He died in an auto accident. But the court found that the State could perform an autopsy with no compelling reason.

In another case, an Ohio court held that an individual could not display a cross on her own front law. According to the court, the Smith decision enabled the State to prevent, without any compelling reason, people from displaying religious articles. In other areas, individuals have been prevented from wearing yarmulkes, crosses, or rosaries, and courts, citing Smith refused to defend their rights.

Rulings such as these risk making a mockery of our religious liberties, and—in light of these pernicious rulings—we must ask ourselves what might be next if we do not act? Will it be permissible to tell a mashgiach how a kosher chicken should be cut? Will it be acceptable for the EPA to tell priests how to handle holy water?

This legislation is a simple reaffirmation of our strong commitment to religious liberty in the fullest sense. It states, without equivocation, that there must be a compelling public reason—health, safety, or the like—before religious traditions or observances would be subject to Government restrictions. That is, as it should be, in this land of religious liberty.

Mrs. LLOYD. Mr. Speaker, I rise in support of the Religious Freedom Restoration Act. This legislation is important in restoring the protection for the exercise of religion that existed prior to the Oregon Employment Division versus Smith decision in 1990.

When our forefathers drafted the Constitution of the United States, they put forth an underlying premise that no person shall be denied life, liberty, and the pursuit of happiness. In codifying this premise our forefathers incorporated language in the first amendment that specifically addresses the rights that shall be enjoyed by all Americans, including the exercise of religion, Congress shall make no law respecting the establishment of religion, or prohibit the free exercise thereof.

Prior to the Smith decision the courts have applied a compelling interest test that requires the Government to demonstrate that any law burdening the free exercise of religion is essential to furthering a compelling interest and is the least restrictive means of furthering that interest. However, the Smith decision abandoned the longstanding compelling interest test for evaluating whether a governmental action unconstitutionally interferes with a religious practice.

The Smith decision has sent out a clear signal to the American people that the Government no longer has to justify most burdens on religious exercise. The Religious Freedom Restoration Act would simply require States seeking to outlaw a questionable religious practice to demonstrate a compelling interest to do so.

Mr. Speaker, I find that the Smith decision places religious rights in a subcategory to other first amendment rights, such as freedom of speech and press. The exercise of religion is a fundamental right and is not to be regarded as a luxury. The Religious Freedom Restoration Act does not provide any additional rights under law, it restores the full exercise of religion established in the first amend-

ment. This bill has bipartisan support and I would urge my colleagues to vote for the Religious Freedom Restoration Act.

Mrs. MALONEY. Mr. Speaker, I rise in strong support of H.R. 1308, the Religious Freedom Restoration Act.

I am proud to be an original cosponsor of this legislation and I believe is one of the most important bills that Congress will pass this year.

It is almost inconceivable that in 1993, the fundamental right of all Americans to the free exercise of religion is in serious jeopardy. But the sad fact is that the Supreme Court's ruling in Employment Division versus Smith has already begun to chip away at the first freedom protected by the Bill of Rights, the freedom of religion.

I was not in Congress when I read Justice Scalia's decision in which he called freedom of religion a luxury. But like many of my colleagues who have cosponsored this bill, I was shocked by this pronouncement. After all, our Nation was founded by people who fled religious persecution and it remains the world's safe haven for those who cherish religious freedom and tolerance.

In New York City, my constituents are quite concerned about the unwarranted governmental interference with religious practices that could come about unless we overturn the court's decision by enacting this bill. The Jewish practices of kosher slaughter and circumcision, for example, might be threatened, as might the use of ceremonial wine, which is important to many faiths. Congregations of different religions have already run afoul of zoning regulations which have banned houses of worship in particular neighborhoods.

The diverse array of religious and other public policy groups which support this bill is proof of the strong sentiment across this land that we cannot tolerate an erosion of religious liberty. Freedom of religion is a fundamental right which transcends ideological, religious, and partisan differences.

I am pleased to join with my colleagues in voting for the Religious Freedom Restoration Act and am pleased that President Clinton will sign the bill when it reaches his desk. That will be a historic day for all Americans.

Ms. PELOSI. Mr. Speaker; I rise today to express my support for H.R. 2927 the Religious Freedom Restoration Act of 1993, and to urge my colleagues to vote in favor of this measure. I commend my colleagues Representatives SCHUMER and COX for reintroducing this important legislation in the 103d Congress.

The Religious Freedom Restoration Act was drafted in response to the 1990 Supreme Court case Employment Division versus Smith. In that case, the Supreme Court discarded the free exercise rule of the first amendment and decided that general laws could deny an individual's right to the free exercise of religion.

In order to protect the constitutional rights of Americans, it is necessary to return the criteria for abridging religious freedom to pre-Smith days. Before this trial, any Government action restricting the free exercise of religion had to pass the "compelling governmental interest test" to prove that the action was essential to further a compelling Government interest.

This legislation is important because it protects an individual's religious freedom from unnecessary Government interference. It provides for the reestablishment of fair standards to determine if Government intervention is necessary.

Religious freedom is one the founding principles of this Nation. H.R. 2927 would ensure the continuation of this important principle. I hope that my colleagues will join me in supporting the protection of religious freedom by voting in favor of the Religious Freedom Restoration Act.

Mr. CARDIN. Mr. Speaker, I rise in strong support of the Religious Freedom Restoration Act, H.R. 1308.

The Supreme Court's decision in Employment Division of Oregon versus Smith seriously weakened the first amendment's guarantee of freedom of religion. In the case, often referred to as the "peyote case," the Supreme Court found that the State of Oregon could deny unemployment compensation benefits to drug rehabilitation counselors who were fired for the sacramental use of peyote in native American religious ceremonies.

Prior to the decision, the test used by the courts for evaluating the constitutionality of a statute that restricted the free exercise of religion was whether the Government could prove it had a compelling interest. In this case, the Supreme Court discarded the strict compelling interest standard in favor of a lesser valid governmental purpose standard.

Under the lesser standard, people's constitutional right to freely exercise their religion was infringed. Here are some examples: Veterans have been denied the right to be buried in some veterans' cemeteries on Saturday and Sunday even if their religious beliefs required it; the Amish have been forced to be required by State law to display fluorescent orange emblems on their horse-drawn carriages even though this violates their religious beliefs; autopsies have been performed on individuals whose religious beliefs prohibit autopsies even though the State was unable to show a compelling reason for performing the autopsy; and on and on.

The Religious Freedom Restoration Act would restore the requirement that the government demonstrate a compelling interest in order to restrict the free exercise of religion. It would also require the government to use the least restrictive means possible to further its compelling interest.

As a long-time cosponsor of the Religious Freedom Restoration Act, I am pleased the bill has received the support of virtually every major religious denomination, the Clinton administration, and, most recently, the unanimous vote of the House Judiciary Committee. I urge my colleagues to support this legislation that strengthens one of our most fundamental rights—the free exercise of religion.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today in support of H.R. 1308, the Religious Freedom Restoration Act. I am proud to be a cosponsor of this important legislation, which will be considered before the House today.

Religious liberty is at the very heart of America's heritage. Indeed, the search for religious tolerance was a principle upon which our great Nation was founded. Over 200 years later, the United States continues to attract a tremendous diversity of people as a safe haven from religious persecution. It is, therefore, important to ensure that such constitutional liberties are protected from unwarranted Government intrusion.

That protection, however, was diminished in 1990, when the Supreme Court abandoned the compelling interest standard in Oregon Employment Division versus Smith. That strict scrutiny test, which had been the constitutional standard for nearly 30 years, was replaced by a less restrictive general interest standard. Accordingly, the Smith decision has permitted Government to infringe upon religious practices so long as the discriminatory effects are not intended to limit any particular religious belief.

This rationale has seriously eroded religious protection as envisioned by the Framers of the Constitution. Its implications are especially burdensome for those whose beliefs lie within the religious minority. Since Smith, over 50 court decisions have used the new standard to decide against religious claimants. It is my understanding that the Founding Fathers authored the first amendment to protect religious minorities from exactly the kind of Government discrimination which has resulted from the Smith decision.

Mr. Speaker, H.R. 1308 is not just about protecting the rights of religious minorities, it is about preserving the constitutional freedom of religion for all Americans. It is time to restore religious freedom to the intended equivalent status of other first amendment freedoms. Therefore, I urge my colleagues to vote in support of the Religious Freedom Restoration Act.

□ 1330

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1308, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 873) entitled the "Gallatin Range Consolidation and Protection Act of 1993," as amended.

The Clerk read as follows:

H.R. 873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gallatin Range Consolidation and Protection Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that:

(1) It has been the clear policy of the Federal Government since 1925 to consolidate the checkerboard lands along the Gallatin Range north of Yellowstone National Park.

(2) These lands north of Yellowstone possess outstanding natural characteristics and wildlife habitat which give them high value as lands added to the National Forest System.

(3) Although these lands have historically remained pristine up to now, failure to consolidate at this time will in the near future lead to fragmentation and development.

(4) The Federal Government has already invested a great deal in keeping the lands along the Gallatin Range protected from excess development.

SEC. 3. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") shall, subject to the provisions of sections 4(a) and 5(a) and notwithstanding any other provision of law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (hereinafter in this section referred to as the "company"), in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title, including mineral interests, to approximately 37,752 and 15/100 acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, upon such acceptance the Secretary of the Interior shall convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 6/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations, and exceptions as may be agreed upon by the Secretary and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—Reciprocal easements shall be exchanged at closing on the conveyances authorized by this section—

(1) in consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary shall, under authority of the Act of October 13, 1964 (16 U.S.C. 532 et seq.; commonly referred to as the "National Forest Roads and Trails Act"), or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements or other rights-of-way authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in an exchange agreement; and

(2) in consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements or other rights-of-way authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in an exchange agreement.

(d) TIMING OF TRANSACTION.—Subject to the provisions of sections 4(a) and 5(a) of this Act, it is the intent of Congress that the conveyances authorized by this section be completed within 90 days after the date of enactment of an Act making the appropriation authorized by subsection (e).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(f) QUALITY OF TITLE.—Title to the properties referenced in this section to be offered to the United States by Big Sky Lumber Company, its assignees or successors in interest, shall include both the entire surface and subsurface estates without reservation or exception. The owner shall be required to acquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 4, 5, and 6. Title to land to be conveyed to the United States shall be acceptable to the Secretary and shall otherwise be in conformity with title standards for Federal land acquisitions.

(g) REFERENCES.—The reference and authorities of this section referring to Plum Creek Timber Company, L.P., shall also refer to its successors and assigns.

SEC. 4. LAND CONSOLIDATION; PORCUPINE AREA.

(a) IN GENERAL.—The exchange described in section 3 of this Act shall not be consummated by the Secretary until the Secretary or a not-for-profit corporation (hereinafter in this section referred to as the "conservation entity") exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 acting for later dispositions to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Porcupine property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. And further that, if said acquisition or option to acquire has been consummated by a conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Secretary.

(b) AUTHORIZATION OF ACQUISITION.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Porcupine Area", dated September, 1992.

(c) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(e) REFERENCES.—The reference and authorities of this section referring to the owner shall mean the Big Sky Lumber Company, and its successors and assigns.

SEC. 5. LAND CONSOLIDATION—TAYLOR FORK AREA.

(a) IN GENERAL.—The exchange described in section 3 of this Act shall not be consummated by the Secretary until the Secretary or a not-for-profit corporation (hereinafter in this section referred to as the "conservation entity") exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 acting for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Taylor Fork property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. And further that, if said acquisition or option to acquire has been consummated by a conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Secretary.

(b) AUTHORIZATION FOR ACQUISITION.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Taylor Fork Area", dated September, 1992.

(c) LAND ACQUISITION AUTHORITIES.—Acquisition pursuant to this section shall be under existing authorities available to the Secretary, except that notwithstanding any other provision of law, exchanges authorized in this section shall not be restricted within the same State.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(e) REFERENCES.—The reference and authorities of this section referring to the owner shall mean the Big Sky Lumber Company, and its successors and assigns.

(f) REPORTS TO CONGRESS.—For a period of 2 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

SEC. 6. LAND CONSOLIDATION—GALLATIN AREA.

(a) IN GENERAL.—It is the policy of the Congress that the Secretary shall attempt to acquire by purchase or exchange all lands within what is generally known as the Gallatin Range owned by Big Sky Lumber Company, its assignees or successors in interest, not otherwise acquired, purchased, or exchanged pursuant to sections 3 and 4 of this Act.

(b) AUTHORIZATION FOR ACQUISITION.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Gallatin Area", dated September 1992.

(c) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary, except that notwithstanding any other law, ex-

changes authorized in this section shall not be restricted within the same State.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(e) QUALITY OF TITLE.—The quality of title to the properties references in this section in fact secured shall meet applicable Forest Service standards with respect to surface and subsurface estates or shall otherwise be acceptable to the Forest Service.

(f) REFERENCES.—The references and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors and assigns.

(g) REPORTS TO CONGRESS.—For a period of 3 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

SEC. 7. SEVERED MINERALS EXCHANGE.

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated, its successors and assigns (referred to in this section as the "company");

(2) there are federally-owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within 2 years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the minerals interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

SEC. 8. GENERAL PROVISIONS.

(a) MAPS.—The maps referred to in sections 3, 4, 5, 6 and 7 are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of any corrections made pursuant to the subsection. The maps shall be on file and available for public inspection in the office of Chief, Forest Service, United States Department of Agriculture.

(b) TITLE OF LANDS CONVEYED TO THE UNITED STATES.—The rights, title and interests to any lands conveyed to the United States in furtherance of section 4 in the Porcupine Area, section 5 in the Taylor Fork Area, and section 6 in the Gallatin Area shall, at a minimum, consist of the surface estate and all the subsurface rights except that the Secretary may accept title subject to outstanding or reserved oil and gas and geothermal rights, except that there shall be no surface occupancy permitted on such Federal lands for any access to reserved or outstanding rights or any exploration or development thereof. Notwithstanding any provision of State law, section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)), or similar law pertaining to access over federally owned land, no portion of lands acquired by the United States in furtherance of this Act shall be available for access to, or exploration or development of, any reserved or outstanding oil, gas, geothermal or other non-Federal property interest.

(c) NATIONAL FOREST LANDS.—All lands conveyed to the United States in furtherance of this Act shall be added to and administered as part of the National Forest System lands by the Secretary in accordance with the laws and regulations pertaining to the National Forest System. Until Congress determines otherwise, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall be managed so as to maintain the present wilderness character and potential for inclusion in the National Wilderness Preservation System in accordance with Public Law 95-150. Other lands acquired shall be subject to the Gallatin National Forest planning process under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

The SPEAKER pro tempore (Mr. MURPHY). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 873, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 873, the Gallatin Range Consolidation Act, was introduced by my friend and colleague on the Natural Resources Committee, Congressman PAT WILLIAMS. This bill would block up checkerboard land ownership in the Gallatin Range of the Gallatin National Forest in Montana. Through a series of exchanges and purchases between the Big Sky Lumber Co. and the Forest Service, approximately 80,000 acres would be added to the national forest. These lands are of great ecological importance. They, along with the rest of the Gallatin Range, are part of the Greater Yellowstone Ecosystem and include the endangered grizzly bear, one of the largest elk herds in the Nation, pristine watersheds, trout fisheries, and spectacular scenery.

Although the Gallatin Range lands are currently privately owned, they have remained unroaded and wild. However, if this legislation is not enacted, it is quite likely that the Big Sky Lumber Co. will road, will log, and will develop these very special lands. Adding to the urgency is the fact that options to purchase some of the lands for the Forest Service expire on June 1, this year. Therefore it is imperative that we move expeditiously on the legislation.

H.R. 873 is very similar to language that we passed in the House in the Montana wilderness bill in the 100th Congress and again in the 102d Congress. There is widespread support for this legislation and the policy change. Big Sky Lumber Co., the Forest Service and the environmental community all testified in favor of the bill at the hearing on March 23, 1993.

I urge my colleagues to support this measure and help bring resolution to an issue that the Congress and the Forest Service have been trying to resolve since the 1920's.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the intent of H.R. 873 which is to consolidate the onerous checkerboard land ownership in the Gallatin National Forest.

It is my understanding that Members of the other body have some concerns with this legislation and are proposing several minor amendments that are noncontroversial. I question whether passing this legislation on suspension prior to our consideration of those amendments is wise but I will defer to the gentleman from Montana [Mr. WILLIAMS] on that point.

Coming from a State that is nearly two-thirds owned by the Federal Government, I believe we should make every effort to acquire lands through exchanges which do not result in net gains in Federal ownership rather than direct acquisition which results in increased acreage under Federal control.

I am pleased that section 3 of H.R. 873 is largely based on a equal value land exchange between the Forest Service and Big Sky Lumber Co. Although I would have preferred that more of the bill was based on this type of exchange rather than direct acquisition, I realize that Mr. WILLIAMS had a difficult task of trying to please so many diverse interests at once.

Mr. Speaker, I do not oppose H.R. 873 on suspension.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I am obviously strongly in favor of the bill, as I have pointed out in my opening statement.

The Forest Service and the private landowners have been working for nearly 70 years to accomplish the objectives that are in the bill, the transfer of these lands, these very sensitive lands.

There is a time certain agreement with the owner of the lands and those who own the timber on the lands, the Big Sky Lumber Co., sometime in June. In fact, that agreement will expire. Unless we act on this, these lands which have been really very much a part of the Yellowstone ecosystem are in fact going to be lost in terms of any opportunity in the future to try to preserve such lands.

I appreciate the concern of my colleague insofar as the lands may require some dollars or cash to purchase and add additional public lands in the State of Montana, which has a significant percentage of public lands today. However, there is nothing that precludes the opportunity for exchanges of equal value in the law. The process obviously, and I think rightly, recognizes that all the tools ought to be open and in option, and realistically the fact that they have not been traded out in previous years indicates the difficulty of that particular task.

Mr. Speaker, I am pleased to yield such time as he may consume to my friend and colleague, the gentleman from Montana [Mr. WILLIAMS], the principal sponsor of this measure, who has worked very diligently on it in committee, both in the Committee on Natural Resources and the Committee on Agriculture.

Mr. WILLIAMS. Mr. Speaker, I say to my friends and colleagues, that I want to thank them for scheduling my bill today and for moving so quickly in this year's agenda to consider this important piece of legislation, the Gallatin Range Consolidation and Protection Act.

My legislation consolidates checkerboard lands in Montana. The consolidation is being presented because of the real public lands disaster that is looming in Montana if this legislation is not adopted by this spring.

Just north of Yellowstone National Park the Gallatin Range connects to the other mountains of the Yellowstone ecosystem like a spoke in a wheel. This range was not protected a century ago when the park was set aside because every other section of the area was granted to the railroads as payment for the trans-America construction. This range's importance to the integrity of Yellowstone has never been questioned, however, and it has essentially remained wild ever since. This range is the home of the largest elk herd in America along with countless other species, including the endangered grizzly bear. The range also is the headwaters of some of the most pristine streams and rivers anywhere in this country.

The first attempt to consolidate these lands happened in 1925 and since then there have been countless attempts to bring the Gallatin Range into Federal ownership. The Federal Government has already spent more than $12 million to acquire elk winter range and the House of Representatives had held countless hours of testimony on the importance of these lands. The House itself passed no fewer than three bills to complete these land trades and purchases, but still the range remains chopped up in checkerboard land ownership.

Not long ago the railroad sold its land to a private timber company to avoid a hostile takeover, and the company has since again sold the lands to several new owners interested in timber and development. Part of the new sale arrangement requires that timber be provided off the private lands, and so now we face a serious problem if we do not solve these intermingled land problems by the time the contractual harvest is necessary. The days of the gracious corporate neighbor in and around the Gallatin are over and increasingly important recreation lands will be subdivided, posted off limits, or sold for private hunting rights, if this legislation is not signed into law.

I helped bring the various parties together last year and we hammered out this agreement. Without this agreement in the Gallatin and because we face a June deadline, the company will soon enter and log the nationally significant Porcupine drainage, with the public losing precious recreation opportunities and scarce public access. I am committed to seeing this does not happen, and I am hopeful that we can continue to move quickly to assure these lands are brought into public ownership. The local landowners are in agreement; conservation organizations and local environmentalists are in agreement; the Park Service and Forest Service are in agreement and we need the Congress and the President to act. This opportunity, dreamed of since 1925, must not be lost and it shows the continued support of this Committee and the Congress in seeing that this job is done.

I would like to note that some of the folks who are supporting this legislation as a way of showing the broad cross section of support for this bill. They include all three members of Montana's congressional delegation, the Governor of Montana, the local county commissioners, the mayor of Bozeman, the Montana Outfitters and Guides Association, the Wilderness Society, the Greater Yellowstone Coalition, the Cottonwood Canyon Homeowners Association, local snowmobile and motorcycle groups, employees at the Belgrade mill.

I would like to particularly note a statement that I received from the Montana Wilderness Association Flathead chapter regarding the lands in its area which are involved in the trade. This statement is important because of some who believed that the lands in the Flathead which are exchanged were not reviewed by the local environmental community. They were in fact suggested by local conservationists as suitable for trading.

As this body knows this type of legislation is difficult to negotiate and even more difficult to pass through Congress. As custodians of our Federal land Congress must be very careful that any trade we consider meet the most stringent requirements of fairness and value. The trade must clearly be in the public's interest and must fulfill public policy goals. I take this responsibility very seriously and have never considered any public land trade without clearly knowing that these goals be met. Montana has been aggressive in consolidating lands and we have never had a problem to date only because with the help of this body we have assured that any consideration had clear public policy goals.

These trades in the Gallatin meet those policy requirements and the 15 years I have been involved in this discussion have shaped these trades to assure they are in the public interest. Any changes in these trades or consideration of other trades also should have to meet the conditions applied to the Gallatin exchange.

This legislation does not represent the end of the Federal Government's interests in the Gallatin. This legislation is just the continuation of an his-

toric concern. And this legislation will set a clear process to identify and assure the continued protection of our national treasures in the greater Yellowstone ecosystem.

I also want to note that there were some concerns recently raised by a local landowner group in Montana about several of the sections traded from Federal ownership in an area known as North Bridgers. There have been discussions, brokered by my office and involving both the private landowners and the Forest Service which continue to seek assurances on appropriate guidelines for private harvest on traded lands the North Bridgers. These efforts also involve the identification of new land combinations and alternatives that help us better achieve protection of the local landowners and still achieve our goals.

I have worked with our two Senators on these issues raised by the folks north of Bozeman and I believe accommodation is possible within the framework of the legislation we pass today. I will continue working with the Senators as the bill is considered in the Senate and to share with them my work on behalf of the North Bridgers Homeowners Association. It is only through compromise and hard work that these difficult land inholding situations can be solved and I remain committed to continuing in that effort.

□ 1340

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to my friend the honorable gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Utah [Mr. HANSEN] for yielding this time to me.

Mr. Speaker, I understand, after studying this, that there is a lot of merit to trying to solve this problem. Unfortunately, the way we are trying to solve it, Mr. Speaker, is by asking the taxpayers to belly up to the bar and spend another $13 to $20 million to buy more Federal land. This Nation, approximately one-third of this Nation, is already owned by the Federal Government, and now they want to spend another $13 to $20 million. We believe it is going to be around $20 million to buy 70,000 acres in this particular park.

Now they can do this by land trade. They do not need to do it by spending taxpayers' money.

If my colleagues look at this chart, they will see that this year the U.S. Forest Service annual land acquisition budget is $63.9 million, and they are going to spend one-third of this on this one project, and it is something that I do not think should be done.

I want to give my colleagues a few reasons why it is important that we defeat this piece of legislation. We should make every effort to acquire lands through these exchanges that have been discussed earlier. Federal direct purchase of private land is costly and resulted in increased acreage under Federal control. We do not need the Federal Government owning more than one-third of this Nation. We need to divest ourselves of a lot of our holdings because the taxpayers are paying to support this land year-in and year-out. We do not need that kind of overhead.

The CBO estimates the land acquisition costs will be at least $13 million, but we believe, when they reappraise this land, it is going to be more like $20 million, approximately one-third of the total amount that is going to be spent on acquisition this year. Furthermore, Mr. Speaker, CBO warns us that this figure might even be much higher than that once these appraisals are finally finished. This single bill would exhaust one-third of the total budget all at once.

With all due respect to my colleague from Montana, Mr. Speaker, this is a pork barrel project. It is one that is not a high priority, and I believe that this legislation should not be brought to the floor under suspension, and I would urge my colleagues to vote against it.

Mr. VENTO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is an outstanding piece of legislation worked out by the National Forest Service. It is something that has gone through the priority system and is strongly supported by the administration, by conservation, indeed by the very companies, the timber companies and others, that we might expect under some circumstances not to be receptive to the type of bills brought before us.

The gentleman's chart that displayed the costs said the CBO said over a period of 5 years, if in fact depending on land values that there be a cost of $12 to $20 million over a period of 5 years, and I would say that even at the outside, if all of that were spent, which we do not believe it will be, it will be something like $4 million a year. The estimation here is we are making trades. We are using all the tools available to the Forest Service in terms of trading out lands.

So, the accumulation of land is not the purpose here. It is the quality of the land that is absolutely essential, and the equalization numbers are $3.4 million that we are saying that, if the land that we bring into the Forest Service is worth more than the land that is traded out, that we can equalize that in dollars. It could be something like $3.4 million.

Now, Mr. Speaker, these other costs, of course, reflect a higher estimate on the part of CBO, but we think that the equalization will be less than that, but obviously we are hampered by the fact that for 70 years there has been efforts to make trades. They have not been successful, but we think it would be far less than that.

So, these lands, which really are the corridors and the areas where the wildlife and Yellowstone is, where we have an opportunity to really bring into the Forest Service and provide the type of ecosystem management that we talked about, I do not think is a controversial bill, and it should be on suspension, it should be strongly supported and passed on for trade as the meritorious measure it is.

Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO] for yielding this time to me.

Mr. Speaker, I want to be sure my colleagues understand that this is not an appropriation bill. There is not a dime of money being appropriated in this bill. I believe most of my colleagues understand that. How much money may have to eventually over the next 3, 4, 5 years or so be appropriated? Well, that depends on what we are able to trade.

What this bill does is sanction a trade. The gentleman says the bill will cost $20 million, as if to indicate this year the bill would cost $20 million. The very people he cites indicate that is not so. They say, rather, over the next 5 years the bill might cost between $12 and an upward limit of $20 million. Knowing the likelihood of these trades, I can tell my colleagues in the Chamber that it is unlikely that the bill would ever cost as much as $20 million.

But perhaps as important as that is this matter of whether or not the Federal Government is consuming huge parcels of land. For the decade that I looked at, and that is the one where the facts, and statistics, data, is most readily available, and that is from 1972 to 1982, the public actually lost ownership of land in this country. We divested the public of approximately 70 million acres of land that went to private holdings.

□ 1350

On millions of those acres of land the public suffered because they were shut out. Public ownership does not mean that the public was shut out. It is the public's land, and they have access to it.

If this trade does not go forward, the private sector, not through fault of its own, because the private sector supports this trade—and they are the ones at the table asking for this trade—will not get the trade. The private sector that now owns this land wants the trade. Because they profit? No. Why does the private sector support it? Because they are going to profit by it? No. In fact, at today's timber prices, the private sector ownership of this land has come to this Interior Committee and said, "The profit for us is to begin to harvest now."

However, they have also said to me that they would like to see this dream, a dream of the American people since 1925, consummated so that from Yellowstone north the land can remain green and with public access.

Mr. Speaker, this is a good deal for the public and I encourage the Members to support it.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from Utah for yielding time to me.

Mr. Speaker, I do not rise to oppose the idea of my friend, the gentleman from Montana [Mr. WILLIAMS]. On the contrary, I think trades are an excellent idea. I think there needs to be some blocking up, not only for management purposes but also so that unique lands can be used, and I support that.

I also support the idea of supporting a bill that is carried by all the members of a delegation. I want to state that the thing I do object to, however, is that there is not an even trade. There is a 70,000-acre deficit here in terms of no net loss in private property.

We argue sometimes that, well, there is no place for a trade, and, of course, that is not true. There may not be places to trade in the forests that have been reserved for unique purposes, and I understand that. But in our State and in Montana, there are millions of BLM land that were not retained for any particular purpose. They were simply there when all the homesteading and everything else was over. So really there ought to be a stronger effort to trade this off.

I really do not imagine there is any reason to have a net loss of private property in terms of these kinds of things. I simply want to make the point that although there is an effort here, and I applaud that, I think there could be a stronger effort to trade net values for net values so there is not a loss of private property.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, first of all, this is not going to be a trade. It is going to be 70,000 acres of new land acquired by the U.S. Government at a cost of $20 million.

This is an authorizing bill. It is not an appropriation bill. But we all know that before we get to the appropriation process, we have to authorize a project, and once it is authorized, then the Member who gets the bill authorized goes to the Appropriations Committee and says, "I've got to have this. It is absolutely imperative that my constituents have this accomplished." Then they get it appropriated.

So this is just the first step, but it will be appropriated because I am confident the gentleman from Montana has the clout with the Appropriations Committee to get it done. So the Members should not be misled, I say to my colleagues, into thinking that this is something that is not going to happen. It is going to cost $20 million.

Mr. Speaker, let me end up by saying that $20 million is not a lot of money over 4 or 5 years when we are talking about a trillion-and-a-half-dollar budget. But the great Senator from Illinois, Senator Everett Dirksen, God rest his soul, when he was in the Senate, used to say, "You know, a million here and a billion here and a billion there, and pretty soon you are talking about real money."

I want to point out, of course, that we have these things come to the floor day in and day out, week in and week out, month in and month out, and year in and year out, and they add up to millions and billions and hundreds of billions of dollars.

I understand this is a small $20 million project, but we do not need to acquire another 70,000 acres in this area. There can be a trade consummated if they really work at it and without the taxpayers shouldering this responsibility.

This is, in my opinion, another waste of taxpayers' money at a time when we cannot afford it. The deficit this year, even though we are going to raise taxes $402 billion plus, whatever the health program costs, is still going to be huge. There will be huge deficits, and we simply do not have the money to keep going on and on and on with programs that are not absolutely a top priority.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just briefly, I would point out to my colleagues that the land and water conservation fund actually takes money from offshore oil and gas. We deplete one resource in that instance, and we are supposed, as a Congress and as law and policy, to try and retain other types of resources that are part of our American heritage.

What the gentleman from Montana [Mr. WILLIAMS] is attempting to do is to make an exchange where it is possible in terms of land and utilize that, and also to use it and keep our commitment in terms of America's future and the heritage of our Nation, our natural heritage.

This area has been de facto a part of the forest. It is protected. It is a very, very important area, Mr. Speaker, and I would appeal to my colleagues to recognize this.

We have been deficient in taking that money and using it for other purposes in many cases. We do not nearly use the proportion we should in terms of making a commitment in keeping the trust with regard to our natural heritage and our cultural heritage.

What I am asking in this instance and what the gentleman from Montana [Mr. WILLIAMS] is asking is that in a small way we attempt to do that in this key natural area in Montana that is so much a part of the Yellowstone ecosystem, to keep these items of natural areas as much intact as we possibly can, using all the tools at the disposal of the Forest Service, including exchange, but also, of course, using a small part of our resources for this very, very important part of our Nation's needs and our national heritage.

So, Mr. Speaker, I would plead with our colleagues to support this measure. It is a good measure. It is a meritorious bill.

Mr. COPPERSMITH. Mr. Speaker, I rise today to endorse passage of the Gallatin Range Consolidation and Protection Act of 1993. I know many of you have visited Yellowstone Park and, just as my family and I have done, experienced the wonders of the world's first national park. The Greater Yellowstone Ecosystem is world-renowned as home to the greatest concentration of geothermal features in the world, some of our largest remaining herds of elk, bison, and other wildlife species, and one of only two places in the lower 48 States where the grizzly bear still roams.

The lands involved in this act lie immediately north of Yellowstone Park, interspersed with Federal lands in the Gallatin National Forest. These lands are threatened with massive development in the form of logging, roading, and subdivision. H.R. 873 represents our last opportunity to protect these critical lands for the American people and for future generations. This act consolidates the checkerboard land pattern in the Gallatin Range and the lower half of the Madison Range and will assure protection of over 80,000 acres currently threatened with immediate development. This act also serves as a model for resolving checkerboard and Federal in-holding problems throughout the West.

I want to thank my colleague PAT WILLIAMS for his superb leadership with this legislation. I also want to recognize the Greater Yellowstone Coalition for its critical work on behalf of H.R. 873, and the lands it will protect.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 873, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The Chair understands that the gentleman withdraws his point of order of

no quorum. The point of order of no quorum is considered withdrawn.

FORT CARSON-PINON CANYON MILITARY LANDS WITHDRAWAL ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 194) to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Withdrawal and reservation of lands at Fort Carson Military Reservation.
Sec. 3. Withdrawal and reservation of lands at Pinon Canyon Maneuver Site.
Sec. 4. Maps and legal descriptions.
Sec. 5. Management of withdrawn lands.
Sec. 6. Management of withdrawn and acquired mineral resources.
Sec. 7. Hunting, fishing, and trapping.
Sec. 8. Termination of withdrawal and reservation and effect of contamination.
Sec. 9. Delegation.
Sec. 10. Hold harmless.
Sec. 11. Amendment to military lands withdrawal act of 1986.
Sec. 12. Authorization of appropriations.

SEC. 2. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 1992, and filed in accordance with section 4.

SEC. 3. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 1992, and filed in accordance with section 4.

SEC. 4. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and a legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the Senate and with the Committee on Interior and Insular Affairs of the House of Representatives.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF COPIES.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 5. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 6, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this Act and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this Act commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2 and 3 for the period of withdrawal. The plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands;

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal; and

(4) be developed not later than 5 years after the date of enactment of this Act.

(c) LISTING OF LANDS SUITABLE FOR MINING.—On completion of the management plan prepared pursuant to subsection (b), the Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined under such subsection to be suitable for opening to mining, and mineral and geothermal leasing, including mineral materials disposal, and specifying the opening date.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 8.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(e) REEXAMINATION OF LANDS FOR SUITABILITY FOR MINING.—At least every five years after the initial identification of lands suitable for opening to mining required by subsection (b)(3), the Secretary of the Army and the Secretary of the Interior shall determine those withdrawn lands, if any, which the Secretaries consider suitable for opening to mining, mineral and geothermal leasing, or mineral material disposal, and those acquired lands, if any, which the Secretaries consider suitable for opening to mineral and geothermal leasing or mineral material disposal. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable for opening and specifying the opening date.

(f) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 6. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

(a) AUTHORITY OF SECRETARY OF THE INTERIOR.—Notwithstanding any other provision of law, and except as provided in section 5 of this Act, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources contained within the boundaries of the Fort Carson Reservation and Pinon Canyon Maneuver Site.

(b) EFFECT OF IDENTIFICATION OF LANDS AS SUITABLE FOR MINING.—On the day specified by the Secretary of the Interior in the notice published in the Federal Register pursuant to subsections (c) and (e) of section 5, the land identified as suitable for opening to the operation of the mining, mineral, and geothermal leasing and the mineral material disposal laws shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary of the Interior or the Congress.

(c) EXCEPTION FROM CERTAIN LAWS.—No deposit of minerals or materials of the types

identified by section 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat. 368), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), or any other law providing for the location of mining claims, on lands described in sections 2 and 3.

(d) REGULATIONS.—On lands identified for opening to mining, mineral, and geothermal leasing or mineral material disposal by section 5(b)(3), or by subsequent amendments to the management plan described in section 5, all minerals contained in those lands shall be subject to mining, mineral, and geothermal leasing or mineral material disposal under such rules and regulations as the Secretary of the Interior may promulgate pursuant to the terms and conditions of section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466).

(e) CLOSURE OF LANDS UNDER CERTAIN CIRCUMSTANCES.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the Army, shall close any lands that have been opened to mining, mineral, and geothermal leasing or mineral material disposal pursuant to this section.

(f) MINING CLAIMS.—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), or to the provisions of other laws enacted hereafter (including provisions for payments to the United States) that are applicable to similar claims on the public domain.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS FOR LOCATABLE MINERALS.—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to the locatable minerals only, and shall be issued together with an appropriate authorization for use of so much of the surface as may be necessary for purposes incident to mineral activities under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this Act:

(A) The term "locatable minerals" means any mineral not subject to disposition under any of the following:

(i) The Mineral Leasing Act (30 U.S.C. 181 et seq.).

(ii) The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(iii) The Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.).

(iv) The Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 et seq.).

(B) The term "mineral activities" means any activity for, related to, or incidental to mineral exploration, mining, beneficiation, and processing activities for any locatable mineral, including access.

SEC. 7. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this Act shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of the enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish any or all of the lands withdrawn and reserved under this Act, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this Act, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Act at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Act as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 9. DELEGATION.

The functions of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Act may be delegated, except that the order referred to in section 8(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. HOLD HARMLESS.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 11. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100

Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) The Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, this measure was referred jointly to the Committee on Natural Resources and the Committee on Armed Services, and I am pleased to yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 194, as amended, the Fort Carson-Pinon Canyon Military Lands Withdrawal Act, which would withdraw and reserve certain public lands and minerals in the State of Colorado for 15 years for military purposes.

Our colleague, the gentleman from Colorado [Mr. HEFLEY] introduced H.R. 194 on January 5, 1993, and it was jointly referred to the Committee on Armed Services and the Committee on Natural Resources.

On March 31, 1993, the Committee on Natural Resources adopted minor and technical amendments to improve the bill and ordered H.R. 194, as amended, favorably reported to the House by a voice vote.

On May 5, 1993, the Committee on Armed Services accepted the amendments adopted by the Committee on Natural Resources and agreed by voice vote to report H.R. 194, as amended, to the House with a recommendation that it pass.

Let me provide a little background. Before 1958, withdrawals of public lands for military purposes were accomplished through administrative actions. Since enactment of the Engle Act of 1958, Public Law 85-337, a peacetime military withdrawal exceeding 5,000 acres of public lands can only be accomplished through congressional action.

The Fort Carson Reservation, has been used by the Army for many years and was permanently withdrawn prior to enactment of the Engle Act. H.R. 194 would withdraw another 3,133 acres of public lands and 11,415 acres of mineral rights within the reservation.

The Pinon Canyon maneuver site is a newer facility established primarily by acquisition of privately owned lands. H.R. 194 would withdraw about 2,517 acres of land and 130,139 acres of minerals.

The principal use of Pinon Canyon and Fort Carson is mechanized training at battalion and brigade levels. The Fort Carson lands would be used primarily for military maneuvering, training, and weapons firing; the Pinon Canyon lands would be used for maneuvering and training but not weapons firing.

Consistent with the Military Lands Withdrawal Act of 1986, the withdrawals would terminate 15 years after enactment. H.R. 194, as amended, would provide procedures for renewal or relinquishment of the reserved and withdrawn lands upon termination.

Mr. Speaker, you may recall that the House passed a bill identical to H.R. 194, H.R. 4404, House Report. 102-813, part I, in the last Congress. Both the House and the Senate passed the provisions of H.R. 4404, as stand alone legislation and in omnibus bills, but the 102d Congress adjourned sine die before action could be completed.

Mr. Speaker, these lands have been withdrawn for military purposes since the 1930's and renewals have occurred every 5 years since. This legislation is needed and necessary to permit our military personnel to train and maintain a high level of readiness.

I am pleased to join my colleague, BRUCE VENTO, from the Natural Resources Committee, in urging the House to pass H.R. 194, as amended.

□ 1400

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFLEY], the chief sponsor of this bill.

Mr. HEFLEY. Mr. Speaker, I would like to thank my colleagues on the Armed Services and Natural Resources Committee for bringing my bill, H.R. 194, to the floor today. This bill extends the Bureau of Land Management's withdrawal of minerals at the Fort Carson tank training center near Colorado Springs.

With the exception of a few largely technical amendments, this bill is identical to H.R. 4404, which passed the House no less than four times in the last Congress but stalled in the Senate over procedural matters. The bill is intended to withdraw and reserve certain public lands and minerals within El Paso, Pueblo, and Teller Counties in Colorado for military purposes. Pursuant to the Engle Act, the bill withdraws 3,133 acres of public lands and minerals and another 11,415 acres of public domain mineral estate already within Fort Carson from general mining laws and the mineral and geothermal leasing laws.

Since Fort Carson was established in the 1930s, the BLM and the Department of the Army have renewed the withdrawal of BLM-controlled mineral rights every 5 years. The previous withdrawal expired on June 23, 1992. In order to simplify this procedure, the BLM last year proposed a 25-year withdrawal with a review every 5 years. This would have been similar to earlier legislation which provided a 15-year withdrawal for Nellis Air Force Base in Nevada.

The BLM argued that 5-year withdrawals were too short, since environmental assessment work leading up to the renewals take about 8 years. Thus, the Army and the BLM are in a constant state of preparing applications.

The bill before you incorporates the 15-year withdrawal adopted by the Natural Resources Committee last year. This is consistent with the 1986 Military Lands Withdrawal Act and represents an improvement on the 5-year rule. Still, the amended bill will leave agencies involved in the work of environmental assessments for more than half the term of the withdrawal.

Last year, the public lands subcommittee expressed some concerns over the bill's requirement, in Section 5(b), that the Secretary of the Army develop a plan for the management of lands acquired and withdrawn under the bill. The BLM argued, and the subcommittee agreed, that this was fitting since the Army will control approximately 95 percent of the Fort Carson withdrawal.

Section 8(b) of last year's bill has been deleted from H.R. 194 with the concurrence of the BLM. This section would have administratively extended the existing mineral withdrawal for up to 2 years if congressional action was delayed and was viewed as necessary because of Fort Carson's mission as a tank-training area. Suspending the mineral withdrawal could conceivable result in the suspension of training exercises. The BLM no longer believes this provision is necessary and it has been removed.

Section 11 amends the Military Lands Withdrawal Act of 1986 to allow the Army to use sand, gravel or other materials to on-base construction during the term of the withdrawal. The BLM believes, and I concur, that this corrects a flaw in Public Law 99-606 and that section 11 offers an opportunity to correct that flaw.

There are two other, technical amendments which have been added to Sec. 6, ss. 1 (f) and Sec. 6, ss. 3 of H.R. 194. Those sections, which deal with mining claims and patents for locatable minerals, were amended to reflect possible future changes in the General Mining Law of 1872.

This bill retains provisions from last year including a technical requirement that the application for renewed land withdrawal meet requirements of the National Environmental Policy Act and that the Secretary of the Army, to the extent funds are made available, maintain a decontamination program consistent with the 1986 omnibus military withdrawal act.

As I said, Fort Carson's immediate past mineral withdrawal expired on June 23, 1992. The withdrawal has been extended, first administratively and later, by a 1-year extension, added in the Senate. This is an important administrative matter and I hope the other body will move quickly on this legislation and we can send this measure to the White House for the President's signature.

Again, I thank my colleagues for allowing me to express my support on behalf of H.R. 194.

Mr. HUNTER. Mr. Speaker, I, too, support the legislation proposed by the gentleman from Colorado, and urge my colleagues in the House to support this important bill.

The Military Installations and Facilities Subcommittee of the House Armed Services Committee, on which I serve as ranking Republican member, was discharged from further consideration of the bill H.R. 194 on Wednesday, May 5. Also on that date, the full Armed Services Committee reported this legislation to the House with a recommendation that it do pass. The legislation was passed by voice vote.

I should note for the record that the subcommittee as well as the full Armed Services Committee did approve a nearly identical bill, also sponsored by the gentleman from Colorado, just last year. Although the bill passed the House, action was not completed before the end of the 102d Congress.

I commend the gentleman from Colorado for his tenacity, and state without equivocation that I support the legislation and urge my colleagues in the House to vote in favor of this important measure.

Mr. HANSEN. I yield myself such time as I may consume.

Mr. Speaker, on behalf of my colleague, the gentleman from Colorado, I stand in full support of H.R. 194. The withdrawal of these lands and minerals is vital for the armored vehicle training that occurs at Fort Carson and Pinon Canyons in Colorado. Fort Carson represents the foremost training facility for our Nation's armored vehicles and this legislation will greatly enhance the efforts of our Armed Forces.

I commend the chairman of our subcommittee for moving this legislation so quickly and I urge support for H.R. 194.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 194, the Colorado military lands withdrawal bill, was introduced by the gentleman from Colorado [Mr. HEFLEY], who serves on both the Natural Resources Committee and the Committee on Armed Services.

The bill would withdraw and reserve for military uses certain lands and minerals in two existing military-use areas, the Fort Carson Reservation and the Pinon Canyon maneuver area both in Colorado.

The bill is identical to one passed by the House last year on which action was not completed in the 102d Congress. I am not aware of any controversy about it.

As the bill comes before the House today, it includes several amendments developed by the Committee on Natural Resources.

The amendments are essentially technical. The first adopts the suggestion of the administration, made at our hearing, to eliminate a provision that was included last year to respond to concerns about a possible period of uncertainty if a renewal of this withdrawal is sought but not completed before the end of the specified term. The testimony was that this was not needed, and the administration suggested it be deleted—which this amendment would do.

The other three amendments revise the so-called unlock provisions of the bill, which allow the Secretary of the Interior to open some or all of the withdrawn lands to mineral entry if the Secretary of the Army concurs.

The effect of the amendments is to make clear that in the event that this unlock occurs, mining claims on these lands would be subject to any revisions to the mining law of 1872 that may be in force at that time—for example, if the President's proposal for mining claim royalties is enacted, that will apply to claims on these lands to the same extent that it does to claims on other public lands.

The amendments themselves do not amend the mining law. They merely clarify that if it is amended, the revised law will apply to any claims that may someday be filed on these lands. It is my understanding that our committee does expect to bring before the House a bill to revise the mining law of 1872, and that issue is a matter for another day.

As I said, Mr. Speaker, this is a noncontroversial bill that the House approved last year. I urge its approval, and am hopeful that this year the Senate will be able to complete the process of its enactment.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to say how very important this bill is. It is identical to what we passed before. I want to thank both committees for acting so expeditiously, because this really is critical. We do not know why it got delayed, but it is time we do it. I wish to thank those Members responsible for moving this forward.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I would like to point out that the handler of this bill is the gentleman from Oklahoma [Mr. MCCURDY]. The gentleman is the chairman of the subcommittee that this bill came out of. The gentleman wished he could be here but is not able to be present on the floor. The gentleman had a lot to do with moving this legislation, and I want the RECORD to show that.

Mr. VENTO. Mr. Speaker, I would like to recognize the contribution of the gentleman from Oklahoma [Mr. MCCURDY] to this legislation. The gentleman chairs a key subcommittee of the Committee on Armed Services.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 236) to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes, as amended.

The Clerk read as follows:

H.R. 236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The public lands managed by the Bureau of Land Management in the State of Idaho within the Snake River Birds of Prey Area contain one of the densest known nesting populations of eagles, falcons, owls, hawks, and other birds of prey (raptors) in North America.

(2) These public lands constitute a valuable national biological and educational resource since birds of prey are important components of the ecosystem and indicators of environmental quality, and contribute significantly to the quality of wildlife and human communities.

(3) These public lands also contain important historic and cultural resources (including significant archaeological resources) as well as other resources and values, all of which should be protected and appropriately managed.

(4) A military training area within the Snake River Birds of Prey Area, known as the Orchard Training Area, has been used since 1953 by reserve components of the Armed Forces. Military

use of this area is currently governed by a Memorandum of Understanding between the Bureau of Land Management and the State of Idaho Military Division, dated May 1985. Operating under this Memorandum of Understanding, the Idaho National Guard has provided valuable assistance to the Bureau of Land Management with respect to fire control and other aspects of management of the Orchard Training Area and the other lands in the Snake River Birds of Prey Area. Military use of the lands within the Orchard Training Area should continue in accordance with such Memorandum of Understanding (or extension or renewal thereof), to the extent consistent with section 4(e) of this Act, because this would be in the best interest of training of the reserve components (an important aspect of national security) and of the local economy.

(5) Protection of the conservation area as a home for raptors can best and should be accomplished by the Secretary of the Interior, acting through the Bureau of Land Management, under a management plan that—

(A) emphasizes management, protection, and rehabilitation of habitat for these raptors and of other resources and values of the area;

(B) provides for continued military use, consistent with the requirements of section 4(e) of this Act, of the Orchard Training Area by reserve components of the Armed Forces;

(C) addresses the need for public educational and interpretive opportunities;

(D) allows for diverse appropriate uses of lands in the area to the extent consistent with the maintenance and enhancement of raptor populations and habitats and protection and sound management of other resources and values of the area; and

(E) demonstrates management practices and techniques that may be useful to other areas of the public lands and elsewhere.

(6) There exists near the conservation area a facility, the World Center for Birds of Prey operated by The Peregrine Fund, Inc., where research, public education, recovery, and reestablishment operations exist for endangered raptor species. There also exists at Boise State University a raptor study program which attracts national and international graduate and undergraduate students.

(7) The Bureau of Land Management and Boise State University, together with other State, Federal, and private entities, have formed the Raptor Research and Technical Assistance Center to be housed at Boise State University, which provides a unique adjunct to the conservation area for raptor management, recovery, research, and public visitation, interpretation, and education.

(8) Consistent with requirements of sections 202 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1732), the Secretary has developed a comprehensive management plan and, based on such plan, has implemented a management program for the public lands included in the conservation area established by this Act.

(9) Additional authority and guidance must be provided to assure that essential raptor habitat remains in public ownership, to facilitate sound and effective planning and management, to provide for effective public interpretation and education, to ensure continued study of the relationship of humans and these raptors, to preserve the unique and irreplaceable habitat of the conservation area, and to conserve and properly manage the other natural resources of the area in concert with maintenance of this habitat.

(10) An ongoing research program funded by the Bureau of Land Management and the National Guard is intended to provide information to be used in connection with future decision-making concerning management of all uses, including continued military use, of public lands within the Snake River Birds of Prey Area.

(11) Public lands in the Snake River Birds of Prey Area have been used for domestic livestock grazing for more than a century, with resultant benefits to community stability and contributions to the local and State economies. It has not been demonstrated that continuation of this use would be incompatible with appropriate protection and sound management of raptor habitat and the other resource values of these lands; therefore, subject to the determination provided for in section 4(f), it is expected that such grazing will continue in accordance with applicable regulations of the Secretary and the management plan for the conservation area.

(12) Hydroelectric facilities for the generation and transmission of electricity exist within the Snake River Birds of Prey Area pursuant to a license(s) issued by the Federal Energy Regulatory Commission, or its predecessor, the Federal Power Commission.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "conservation area" means the Snake River Birds of Prey National Conservation Area established by section 3.

(3) The term "raptor" or "raptors" means individuals or populations of eagles, falcons, owls, hawks, and other birds of prey.

(4) The term "raptor habitat" includes the habitat of the raptor prey base as well as the nesting and hunting habitat of raptors within the conservation area.

(5) The term "Memorandum of Understanding" means the Memorandum of Understanding #ID-237, dated May 1985, between the State of Idaho Military Division and the Bureau of Land Management.

(6) The term "Orchard Training Area" means that area generally so depicted on the map referred to in section 3(b), and as described in the Memorandum of Understanding as well as the air space over the same.

(7) The term "Impact Area" means that area which was used for the firing of live artillery projectiles and is used for live fire ranges of all types and, therefore, poses a danger to public safety and which is generally so depicted on the map referred to in section 3(b).

(8) The term "Artillery Impact Area" means that area within the Impact Area into which live projectiles are fired, which is generally described as that area labeled as such on the map referred to in section 3(b).

(9) The term "the plan" means the comprehensive management plan developed for the conservation area, dated August 30, 1985, together with such revisions thereto as may be required in order to implement this Act.

(10) The term "hydroelectric facilities" means all facilities related to the generation, transmission, and distribution of hydroelectric power and which are subject to, and authorized by, a license(s), and any and all amendments thereto, issued by the Federal Energy Regulatory Commission.

SEC. 3. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT AND PURPOSES.—(1) There is hereby established the Snake River Birds of Prey National Conservation Area (hereafter referred to as the "conservation area").

(2) The purposes for which the conservation area is established, and shall be managed, are to provide for the conservation, protection, and enhancement of raptor populations and habitats and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.

(3) Subject to the provisions of subsection (d) of this section and section 4, uses of the public lands in the conservation area existing on the date of enactment of this Act shall be allowed to continue.

(b) AREA INCLUDED.—The conservation area shall consist of approximately 482,457 acres of Federally owned lands and interests therein managed by the Bureau of Land Management as generally depicted on the map entitled "Snake River Birds of Prey National Conservation Area", dated November 1991.

(c) MAP AND LEGAL DESCRIPTION.—As soon as is practicable after enactment of this Act, the map referred to in subsection (b) and a legal description of the conservation area shall be filed by the Secretary with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map shall have the same force and effect as if included in this Act; except that the Secretary may correct clerical and typographical errors in such map and legal description. Each such map shall be on file and available for public inspection in the office of the Director and the Idaho State Director of the Bureau of Land Management of the Department of the Interior.

(d) WITHDRAWALS.—Subject to valid existing rights, the Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; and from entry, application, and selection under the Act of March 3, 1877 (Ch. 107, 19 Stat. 377, 43 U.S.C. 321 et seq.; commonly referred to as the "Desert Lands Act"), section 4 of the Act of August 18, 1894 (Ch. 301, 28 Stat. 422; 43 U.S.C. 641; commonly referred to as the "Carey Act"), the Act of July 3, 1890 (Ch. 656, 26 Stat. 215; commonly referred to as the "State of Idaho Admissions Act"), section 2275 of the Revised Statutes, as amended (43 U.S.C. 851), and section 2276 of the Revised Statutes, as amended (43 U.S.C. 852). The Secretary shall return to the applicants any such applications pending on the date of enactment of this Act, without further action. Subject to valid existing rights, as of the date of enactment of this Act, lands within the Birds of Prey Conservation Area are withdrawn from location under the general mining laws, the operation of the mineral and geothermal leasing laws, and the mineral material disposal laws, except that mineral materials subject to disposal may be made available from existing sites to the extent compatible with the purposes for which the conservation area is established.

SEC. 4. MANAGEMENT AND USE.

(a) IN GENERAL.—(1)(A) Within 1 year after the date of enactment of this Act, the Secretary shall make any revisions in the existing management plan for the conservation area as necessary to assure its conformance with this Act, and no later than January 1, 1996, shall finalize a new management plan for the conservation area.

(B) Thereafter, the Secretary shall review the plan at least once every 5 years and shall make such revisions as may be necessary or appropriate.

(C) In reviewing and revising the plan, the Secretary shall provide for appropriate public participation.

(2) Except as otherwise specifically provided in section 3(d) and subsections (d), (e), and (f) of this section, the Secretary shall allow only such uses of lands in the conservation area as the Secretary determines will further the purposes for which the Conservation Area is established.

(b) MANAGEMENT GUIDANCE.—After each review pursuant to subsection (a), the Secretary shall make such revisions as may be needed so that the plan and management program to im-

plement the plan include, in addition to any other necessary or appropriate provisions, provisions for—

(1) protection for the raptor populations and habitats and the scientific, cultural, and educational resources and values of the public lands in the conservation area;

(2) identifying levels of continued military use of the Orchard Training Area compatible with paragraph (1) of this subsection;

(3) public use of the conservation area consistent with the purposes of this Act;

(4) interpretive and educational opportunities for the public;

(5) a program for continued scientific investigation and study to provide information to support sound management in accordance with this Act, to advance knowledge of raptor species and the resources and values of the conservation area, and to provide a process for transferring to other areas of the public lands and elsewhere this knowledge and management experience;

(6) such vegetative enhancement and other measures as may be necessary to restore or enhance prey habitat;

(7) the identification of levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established; and

(8) assessing the desirability of imposing appropriate fees for public uses (including, but not limited to, recreational use) of lands in the conservation area, which are not now subject to fees, to be used to further the purposes for which the conservation area is established.

(c) VISITORS CENTER.—The Secretary, acting through the Director of the Bureau of Land Management, is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, a visitors center designed to interpret the history and the geological, ecological, natural, cultural, and other resources of the conservation area and the biology of the raptors and their relationships to man.

(d) VISITORS USE OF AREA.—In addition to the Visitors Center, the Secretary may provide for visitor use of the public lands in the conservation area to such extent and in such manner as the Secretary considers consistent with the protection of raptors and raptor habitat, public safety, and the purposes for which the conservation area is established. To the extent practicable, the Secretary shall make available to visitors and other members of the public a map of the conservation area and such other educational and interpretive materials as may be appropriate.

(e) NATIONAL GUARD USE OF THE AREA.—(1) Pending completion of the ongoing research concerning military use of lands in the conservation area, or until the date 5 years after the date of enactment of this Act, whichever is the shorter period, the Secretary shall permit continued military use of those portions of the conservation area known as the Orchard Training Area in accordance with the Memorandum of Understanding, to the extent consistent with the use levels identified pursuant to subsection (b)(2) of this section.

(2) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall review the management plan and make such additional revisions therein as may be required to assure that it meets the requirements of this Act.

(3) Upon completion of the ongoing research concerning military use of lands in the conservation area, the Secretary shall submit to the Committees on Natural Resources and Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of the results of such research.

(4) Nothing in this Act shall preclude minor adjustment of the boundaries of the Orchard Training Area in accordance with provisions of the Memorandum of Understanding.

(5) After completion of the ongoing research concerning military use of lands in the Orchard Training Area or after the date 5 years after the date of enactment of this Act, whichever first occurs, the Secretary shall continue to permit military use of such lands, unless the Secretary, on the basis of such research, determines such use is not compatible with the purposes set forth in section 3(a)(2). Any such use thereafter shall be permitted in accordance with the Memorandum of Understanding, which may be extended or renewed by the Secretary so long as such use continues to meet the requirements of subsection (b)(2) of this section.

(6) In accordance with the Memorandum of Understanding, the Secretary shall require the State of Idaho Military Division to insure that military units involved maintain a program of decontamination.

(7) Nothing in this Act shall be construed as by itself precluding the extension or renewal of the Memorandum of Understanding, or the construction of any improvements or buildings in the Orchard Training Area so long as the requirements of this subsection are met.

(f) LIVESTOCK GRAZING.—(1) So long as the Secretary determines that domestic livestock grazing is compatible with the purposes for which the conservation area is established, the Secretary shall permit such use of public lands within the conservation area, to the extent such use of such lands is compatible with such purposes. Determinations as to compatibility shall be made in connection with the initial revision of management plans for the conservation area and in connection with each plan review required by section 4(a)(1)(B).

(2) Any livestock grazing on public lands within the conservation area, and activities the Secretary determines necessary to carry out proper and practical grazing management programs on such lands (such as animal damage control activities) shall be managed in accordance with the Act of June 28, 1934 (43 U.S.C. 315 et seq.; commonly referred to as the "Taylor Grazing Act"), section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), other laws applicable to such use and programs on the public lands, and the management plan for the conservation area.

(g) COOPERATIVE AGREEMENTS.—The Secretary is authorized to provide technical assistance to, and to enter into such cooperative agreements and contracts with, the State of Idaho and with local governments and private entities as the Secretary deems necessary or desirable to carry out the purposes and policies of this Act.

(h) AGRICULTURAL PRACTICES.—Nothing in this Act shall be construed as constituting a grant of authority to the Secretary to restrict recognized agricultural practices or other activities on private land adjacent to or within the conservation area boundary.

(i) HYDROELECTRIC FACILITIES.—Notwithstanding any provision of this Act, or regulations and management plans undertaken pursuant to its provisions, the Federal Energy Regulatory Commission shall retain its current jurisdiction concerning all aspects of the continued and future operation of hydroelectric facilities, licensed or relicensed under the Federal Power Act (16 U.S.C. 791a et seq.), located within the boundaries of the conservation area.

SEC. 5. ADDITIONS.

(a) ACQUISITIONS.—(1) The Secretary is authorized to acquire lands and interests therein within the boundaries of the conservation area by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that such lands or interests owned by the State of Idaho or a political subdivision thereof may be acquired only by donation or exchange.

(2) Any lands located within the boundaries of the conservation area that are acquired by the United States on or after the date of enactment of this Act shall become a part of the conservation area and shall be subject to this Act.

(b) PURCHASE OF LANDS.—In addition to the authority in section 318(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748) and notwithstanding section 7(a) of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601–9(a)), monies appropriated from the Land and Water Conservation Fund may be used as authorized in section 5(b) of the Endangered Species Act of 1973 (16 U.S.C. 1534(b)), for the purposes of acquiring lands or interests therein within the conservation area for administration as public lands as a part of the conservation area.

(c) LAND EXCHANGES.—The Secretary shall, within 4 years after the date of enactment of this Act, study, identify, and initiate voluntary land exchanges which would resolve ownership related land use conflicts within the conservation area.

SEC. 6. OTHER LAWS AND ADMINISTRATIVE PROVISIONS.

(a) OTHER LAWS.—(1) Nothing in this Act shall be construed to supersede, limit, or otherwise affect administration and enforcement of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or to limit the applicability of the National Trails System Act to any lands within the conservation area.

(2) Except as otherwise specifically provided in this Act, nothing in this Act shall be construed as limiting the applicability to lands in the conservation area of laws applicable to public lands generally, including but not limited to the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, or the Native American Graves Protection and Repatriation Act.

(3) Nothing in this Act shall be construed as by itself altering the status of any lands that on the date of enactment of this Act were not managed by the Bureau of Land Management.

(4) Nothing in this Act shall be construed as prohibiting the Secretary from engaging qualified persons to use public lands within the conservation area for the propagation of plants (including seeds) to be used for vegetative enhancement of the conservation area in accordance with the plan and in furtherance of the purposes for which the conservation area is established.

(b) RELEASE.—The Congress finds and directs that the public lands within the Snake River Birds of Prey Natural Area established as a natural area in October 1971 by Public Land Order 5133 have been adequately studied and found unsuitable for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976. Such lands are hereby released from further management pursuant to section 603(c) of such an Act and shall be managed in accordance with other applicable provisions of law, including this Act.

(c) EXISTING ADMINISTRATIVE WITHDRAWAL TERMINATED.—Public Land Orders 5133 dated October 12, 1971, and 5777 dated November 21, 1980, issued by the Secretary are hereby revoked subject to subsections (d)(3) and (d)(4).

(d) WATER.—(1) The Congress finds that the United States is currently a party in an adjudication of rights to waters of the Snake River, including water rights claimed by the United States on the basis of the reservation of lands

for purposes of conservation of fish and wildlife and that consequently there is no need for this Act to effect a reservation by the United States of rights with respect to such waters in order to fulfill the purposes for which the conservation area is established.

(2) Nothing in this Act or any action taken pursuant thereto shall constitute either an expressed or implied reservation of water or water rights for any purpose.

(3) Nothing in this Act shall be construed as effecting a relinquishment or reduction of any of the water rights held or claimed by the United States within the State of Idaho or elsewhere on or before the date of enactment of this Act.

(4) The Secretary and all other officers of the United States shall take all steps necessary to protect all water rights claimed by the United States in the Snake River adjudication now pending in the district court of the State of Idaho in which the United States is joined under section 208 of the Act of July 10, 1952 (66 Stat. 560; 43 U.S.C. 666; commonly referred to as the "McCarran Amendment").

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 236, the bill being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 236, introduced by the gentleman from Idaho [Mr. LAROCCO], is a bill to designate the Snake River Birds of Prey National Conservation Area, in Idaho.

The bill affects public lands managed by the Bureau of Land Management, the BLM, that are located about 30 miles south of Boise, ID, along the Snake River.

Nowhere else on this continent do climate, vegetation, and soils merge to create such an important habitat for birds of prey, and this area supports North America's densest known nesting populations of eagles, hawks, falcons, owls, and other raptors.

Each year, over 600 pairs of raptors, representing some 15 different species, return to the area to breed and rear their young. These include peregrine and prairie falcons; bald and golden eagles; kestrels; great-horned, screech, barn, burrowing, and long-eared owls; red-tailed, ferruginous, swainson's, and marsh hawks; ravens; and turkey vultures.

This bill deals with lands that have very special qualities that certainly qualify for designation as a BLM National Conservation Area.

H.R. 236 is similar but not identical to a bill that the House passed in the last Congress. Let me briefly explain the background of this bill and the evolutionary process that has produced the version of the legislation that is before the House today.

In the last Congress, consideration of Mr. LAROCCO's birds of prey bill began in August 1991, with a subcommittee field inspection and field hearing in Idaho, followed by a further hearing here in Washington. The bill was approved in committee on November 20, and the House passed the bill on November 23, 1991.

For nearly a year after that, the Senate took no action on the bill. Finally, in September 1992, it was reported from the Senate committee in considerably amended form.

With time running out, discussions were held to see if agreement could be reached on compromises that would bridge the gaps between the House-passed version and the version reported in the other body.

Those discussions resulted in agreement on a revised version that was in fact passed by the Senate on October 7, 1992. However, as Members who served in the last Congress will recall, the parliamentary situation was such that the House was unable to act further on this and many other matters, and so the bill died with the sine die adjournment of the 102d Congress.

H.R. 236, as introduced by Mr. LAROCCO on January 5 of this year, embodies the compromises worked out at the end of last session.

As a result, in several respects the bill is somewhat different from the overall version that the House passed in 1991.

For example this measure is stronger than the version reported from committee last Congress in the Senate, and in one respect stronger than the previous version passed by the House.

A very important point about this bill, Mr. Speaker, is that the lands involved had been given a special management status by administrative actions, most recently by public land orders issued in 1980 by then-Secretary of the Interior Cecil Andrus, now the Governor of Idaho.

However, under the Federal Land Policy and Management Act of 1976, such public land orders are not permanent. Their effectiveness is limited to 20 years.

The purpose of Mr. LAROCCO's bill, like that of the version passed by the House in 1991, is to replace the temporary administrative designation and management requirements with a permanent, statutory designation, and management requirements. This makes the bill very different from most measures to designate BLM-managed public lands as national conservation areas.

That difference is reflected in the provisions of the bill, particularly those dealing with three existing uses of these lands—materials disposals, grazing, and military uses.

The House-passed bill of 1991 would have left the Secretary with complete discretion to dispose of sand, gravel, and similar materials located within the new national conservation area. The Senate committee's version would have prohibited any such disposals. The bill now before the House includes language to permit continued disposals of materials from existing permits, so long as that was compatible with the purposes of the conservation area, but prohibit establishment of any new disposal sites. In this respect, this bill is more restrictive than the House-passed version of 1991.

On grazing and on military use, the bill now before the House would be slightly less stringent than the version the House passed in 1991.

Livestock grazing is currently permitted on the lands covered by the bill. The 1991 House bill would have authorized the Secretary to permit grazing to continue to the extent that the Secretary determined it to be compatible with the purposes of the conservation area. The bill now before the House says that determinations about compatibility will be part of the management-planning process, and so long as the Secretary does determine grazing is compatible with the purposes, grazing shall be permitted.

The effect of this is to provide for a regular process of decision-making about grazing in terms of its compatibility with the purposes of the conservation area.

On military uses, both the House-passed bill of 1991 and this bill would assure that the National Guard could continue to use the orchard training area—within the boundaries of the conservation area—until the completion of an ongoing research project about the effects of this use, that is, for up to 5 more years.

The 1991 House bill provided that after that period, the Secretary could permit military use to continue, to the extent that it was determined that this would be compatible with the purposes of the conservation area. The bill now before the House provides that after the research period, the military use will continue unless the Secretary determines that it would not be compatible with the purposes.

In short, this version shifts the burden of proof, so that ending of military use would have to be based on a determination of incompatibility.

As I noted, Mr. Speaker, the measure is different with such compromises, but I think that in the particular context of this bill they are acceptable—especially since this bill is primarily intended to codify into law the current status and management of these lands.

They would not necessarily be acceptable in other contexts or with respect to other lands that might be proposed for national conservation area status.

For example, in no way should the guidelines contained in this bill for determining the compatibility of secondary uses be viewed as precedent-setting for future legislation. This is particularly significant for compatibility determinations on other BLM-managed national conservation areas or, for that matter, with respect to units of the National Wildlife Refuge System.

Similarly, Mr. Speaker, the bill includes an explicit statement that designation of the area as a national conservation area is not to be construed as effecting a new reservation of a Federal water right. This is an expansion of the language of the bill passed by the House in 1991, which merely stated the finding that no such new reserved right was necessary in view of previous administrative actions. But, like the bill the House passed in 1991, this bill will not diminish any water rights of the United States in Idaho.

In summary, Mr. Speaker, this is a good bill that appropriately provides for the protection and sound management of a very special part of the Nation's public lands. I want to commend the gentleman from Idaho, Congressman LARRY LAROCCO, for the persistence and hard work that have enabled us to bring the bill before the House today, and I urge the House to approve the bill.

□ 1410

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 236 which has been described in detail by Chairman VENTO.

I would like to congratulate our former colleague, who is now in the other body, and Mr. LAROCCO for their hard work and willingness to accommodate ranchers, the military, and others who use these lands for their livelihoods. This bill is living proof that diverse groups can be brought together to protect a truly unique area.

I would particularly like to commend them and Chairman VENTO for section 6(d) which disclaims a Federal-reserved water right for this proposed national conservation area. I am hopeful that this language can be used to establish a precedent for new wilderness areas and national conservation areas in the arid West.

My only concern with this legislation is the grandiose plans BLM has for an $8 million visitor center. I would hope that the Idaho delegation could scale this plan down when they request appropriations for this purpose in the future.

I urge my colleagues to support H.R. 236.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the principal architect of this bill, the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, I rise today in support of H.R. 236, my legislation to make permanent the Snake River Birds of Prey National Conservation Area in Idaho. Passage of this legislation will mark the establishment of the eighth national conservation area in the United States.

The Snake River Birds of Prey Area contains some 482,000 acres of canyons and plateaus along 81 miles of the Snake River in southwest Idaho.

This special high desert is home to the densest nesting concentration of birds of prey in North America. More than 600 pairs of raptors nest there including bald eagles, peregrine falcons, and red-tailed hawks.

Some of the canyon walls along the Snake River soar as much as 375 feet, providing ideal nesting sites for the birds of prey.

Deep, wind-blown soil covers the expansive plateaus above the canyons. This fine-textured earth contains all the characteristics which make the area a perfect site for an unusual variety and number of small, burrowing animals—food for the raptors.

Not only does the area provide unique habitat for birds of prey, but the story of human use of the area is also remarkable.

The Snake River Canyon contains some of the oldest native American archaeological sites in Idaho. The discovery of gold in the 1860's in the nearby Owyhee Mountains brought settlement to the area.

Today, ranching, power generation, recreation and the National Guard training continue to exist as multiple uses of the Birds of Prey Area.

In 1984, when the World Center for Birds of Prey sought a new home, it found it in Boise, ID, located only a few miles from the area. The center, operated by the Peregrine Fund, conducts research on endangered species of raptors in conjunction with Boise State University.

Today, the entire Snake River birds of prey network is recognized by conservationists worldwide.

Mr. Speaker, on my election to Congress in 1990, I made the permanent protection of the Snake River Birds of Prey Area a priority so I am especially gratified for today's passage of H.R. 236 by the House.

Along the way, a number of people have played critical roles in reaching today's House action. Among them are Gov. Cecil Andrus, who as Secretary of the Interior in 1980, issued a public land order to protect the lands from development.

In 1991, the chairman of the Subcommittee on National Parks, Forests and Public Lands, Mr. VENTO, came to Idaho to hold a field hearing and to inspect the conservation area. I thank Chairman VENTO and his staff, particularly Stan Sloss, for all their assistance with this legislation.

I also thank Congressman JIM HANSEN of Utah, the ranking minority member of the Public Lands Subcommittee, and former Congressman Robert Lagomarsino of California, for their help.

During the last Congress, different versions of the bill passed both the House and the Senate, but time ran out before it could be approved by both Houses.

Early this year, I introduced a revised bill which reflected an agreement with the senior Senator from Idaho, Senator CRAIG, the chairman of the Natural Resources Committee, Mr. MILLER, and Mr. VENTO.

Others who deserve recognition include such diverse groups as the Idaho Cattle Association, the Sierra Club, the Idaho Conservation League and the Idaho Water Users Association, the Audubon Society and Idaho National Guard.

Mr. Speaker, as one of eight national conservation areas, the Snake River Birds of Prey Area represents a common-sense approach to resource management as advocated by the Bureau of Land Management.

Fulfilling the BLM's multiple-use mission requires the thoughtful management of a diversity of resources, uses and values. Conservation of natural resources is an important element in multiple-use management. The national conservation area designation has become a valuable tool for BLM managers in conserving nationally significant resource values.

NCA's encompass lands of national outstanding values which can be managed for a variety of uses with heightened sensitivity to identified resource values. The seven current NCA's are the result of separate and different statutory actions by the Congress between 1970 and 1990.

One area, the California Desert NCA was included as part of the Federal Land Policy Management Act. Two others, the Steese NCA and the Gila Box NCA in Arizona were created as part of larger wilderness acts. The others, King Range NCA in California, El Malpais NCA in New Mexico, San Pedro NCA in Arizona, and Red Rock Canyon NCA in Nevada were created by single-purpose statutes.

The Snake River Birds of Prey Area will take its place as a valuable addition to the national conservation area system.

Mr. Speaker, I am submitting an editorial from today's Idaho Statesman, entitled Diligence May Finally Win Birds Bill to be reprinted in the RECORD following my statement.

The editorial states:

A Birds of Prey protection bill is expected to fly out of the U.S. House of Representatives today. At last.

I could not agree more, Mr. Speaker, and I urge my colleagues to support passage of H.R. 236.

[From The Idaho Statesman, May 11, 1993]

DILIGENCE MAY FINALLY WIN BIRDS BILL

A Birds of Prey protection bill is expected to fly out of the U.S. House of Representatives today. At last.

Credit Idaho Rep. Larry LaRocco for sticking to his 1990 campaign promise to win protection for the home of one of the world's densest populations of eagles, hawks and other raptors.

The bill next goes to the Senate, where Idaho Sen. Larry Craig has also pledged to work for passage.

Gov. Cecil Andrus, as Interior secretary in 1981, set aside 482,000 acres along the Snake River south of Boise for a Birds of Prey Natural Area. That interim protection will expire in the year 2000.

Permanent protection for Birds of Prey nearly made it out of Congress last year, but instead was crushed in the gridlock of the 102d Congress.

Although LaRocco and Craig have had their differences along the way, both invested a good deal of time working through concerns about water rights and grazing. The payoff for their diligence will be permanent protection for an area that has brought southern Idaho worldwide attention.

Mr. VENTO. Mr. Speaker, I ask Members to support this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 236, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LECHUGUILLA CAVE PROTECTION ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, as amended.

H.R. 698

Be it enacted by the Senate and House of Representatives of the United States of America, assembled,

SECTION 1. SHORT TITLE, FINDING, AND DEFINITIONS.

(a) SHORT TITLE.—this act may be cited as the "Lechuguilla Cave Protection Act of 1993".

(b) FINDING.—Congress finds and declares that Lechuguilla Cave and other significant cave resources of Carlsbad Caverns National Park and adjacent public lands in the cave protection area have internationally-significant scientific, environmental, and other values and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to those values.

(c) DEFINITIONS.—As used in this Act—

(1) the term "the Secretary" means the Secretary of the Interior.

(2) the term "cave protection area" means the lands within the area depicted on the map referred to in section 2(b).

(3) except as otherwise specified in this Act, all other terms, including the term "public lands," shall have the same meaning as such terms have in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

SEC. 2. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, the approximately 6,280 acres of public lands within the cave protection area, and all other lands within the boundaries of the cave protection area which may hereafter become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation or disposal under the public land laws (including the mining and material disposal laws) and from the operation of the mineral leasing and geothermal leasing laws.

(b) LAND DESCRIPTION.—The lands referred to in subsection (a) are the lands generally depicted on the map entitled "Lechuguilla Cave Protection Area" dated April 1993 and filed in accordance with subsection (c).

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as possible after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice containing the legal description of the lands withdrawn by subsection (a) and shall file such legal description and a detailed map of the lands referred to in such subsection with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The map and legal description referred to in paragraph (1) shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors in such map and legal description.

(3) Copies of the map and legal description referred to in subsection (b) shall be available for public inspection in the offices of the Director and appropriate State Director of the Bureau of Land Management.

(d) MANAGEMENT.—The public lands withdrawn by this section shall be managed by the Secretary, through the Director of the Bureau of Land Management, pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 17901 et seq.) and other applicable law, including this Act.

SEC. 3. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION OF NEW DRILLING.—(1)(A) Effective on the date of enactment of this Act, the Secretary shall not permit any new drilling on or involving any valid mineral or geothermal leases within the lands withdrawn by section 2.

(B) If the Secretary deems it appropriate in order to prevent an adverse impact on Lechuguilla Cave or other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area, the Secretary shall require suspension of any other activities with respect to such leases.

(2) The prohibition on new drilling imposed by paragraph (1) shall remain in effect until the effective date of a record of decision regarding the proposal to drill analyzed in the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever first occurs. Nothing in this subsection shall be construed as requiring the Secretary to permit or prohibit new drilling after such period.

(b) NEGOTIATIONS.—(1) During the period specified in subsection (a)(2), the Secretary shall seek the agreement of the holders of existing valid mineral or geothermal leases on the public lands withdrawn by section 2(a) for the termination of such leases or to such restrictions on activities on lands covered by such leases as the Secretary deems appropriate to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

(2)(A) With respect to any lease for which no agreement of the type described in paragraph (1) of this subsection has been reached at the end of the period specified in subsection (a)(2), the Secretary shall take such steps as the Secretary deems appropriate in order to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

(B) The steps referred to in subparagraph (A) may include acquisition of the lands covered by such leases or any interests therein. In the event of such acquisition, and lands or interests therein so acquired shall be managed pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this Act.

(3) To the extent the Secretary deems desirable, the Secretary shall seek the cooperation of the State of New Mexico and any other parties owning lands within the cave protection area with respect to such restrictions on the use of relevant lands owned by such parties as the Secretary may suggest in order to further the protection of Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area.

SEC. 4. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) ADDITIONAL PROTECTION.—(1) If on the basis of scientific analysis found by the Secretary to be relevant and credible, the Secretary deems it appropriate to take additional steps to protect Lechuguilla Cave or the other significant cave resources of Carlsbad Caverns National Park and the lands within the cave protection area, the Secretary, pursuant to the authority of the Federal land Policy and Management Act of 1976 or other applicable law, shall take such steps.

(2) To the extent the Secretary finds appropriate in order to protect Lechuguilla Cave and the other significant cave resources of Carlsbad Caverns National Park or the lands within the cave protection area, the Secretary may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources except as the Secretary may permit for scientific purposes.

(3) If the Secretary determines that existing law, including this Act, provides the Secretary insufficient authority to take any step the Secretary deems desirable in order to protect Lechuguilla Cave or other significant cave resources of Carlsbad Caverns National Park or the lands within the cave protection area, the Secretary shall inform the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the additional authority the Secretary believes desirable.

(b) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable

law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 698 is a measure I introduced earlier this year to provide additional protection for Lechuguilla Cave and the other resources and values of Carlsbad Caverns National Park in New Mexico, as well as the cave resources and values of certain adjacent lands.

Lechuguilla Cave, is acknowledged by scientists and cavers as a world-class resource, is the deepest cave in the United States. It is also very large, extending for more than 60 miles—exceeding Carlsbad Cavern itself—with the possibility that only a small percentage of its full size has been mapped.

It also contains many unusual features, such as gypsum chandeliers described by experts as the best examples of such formations in the world.

The gentleman from New Mexico [Mr. RICHARDSON], members of the New Mexico delegation, and others have for some time expressed concern that existing law might not be adequate to assure proper protection of this world-class resource.

Recently, serious concerns about possible effects of oil and gas drilling on Lechuguilla and other cave resources have heightened as there has been increased mineral exploration activity in the general area.

In response, during the last Congress I proposed withdrawing BLM lands in the Dark Canyon area, adjacent to the national park, from mineral entry and mineral leasing. That withdrawal was approved by the then Interior and Insular Affairs Committee as part of the bill to withdraw other public lands for the waste isolation pilot project facility, but it was not included in the final version of that legislation.

The purpose of H.R. 698 is to make a similar withdrawal, and also to address possible development of already existing mineral leases where drilling or other activities could present a risk to Lechuguilla or other significant cave resources.

Since the introducing of the bill, I've worked with the gentleman from New Mexico [Mr. SKEEN], in whose district the affected lands are located, and I am glad to be able to inform the House that we were able to reach an agreement on a revised version of the bill that is acceptable to both of us and to the administration as well.

The Committee on Natural Resources adopted an amendment in the nature of a substitute that embodies our agreement, and that is the version of the bill that is now before the House.

The bill as reported provides for withdrawal of about 6,280 acres of public lands within an area described as a "cave protection area" adjoining Carlsbad Caverns National Park on the north. The boundaries of the cave protection area are based on suggestions from the administration, and reflect the work of their geologists and other experts.

The cave protection area includes some lands owned by the State of New Mexico and other parties besides the United States, but these non-Federal lands would not be affected by the withdrawal or the other provisions of the bill that relate to the Federal lands.

As to existing leases in the cave protection area, the substitute would prohibit any new drilling until BLM issues a record of decision on the one pending application for such drilling, or for 1 year after the bill's enactment—whichever comes first.

During this moratorium period, the Secretary of the Interior would be required to negotiate with the leaseholders to see if agreement can be reached on whatever restrictions the Secretary believes appropriate in order to protect Lechuguilla and the other significant cave resources in the national park and the cave protection area.

At the end of the moratorium period, the Secretary of the Interior would be required to take whatever action is needed, in the absence of an agreement, to protect these resources. That could include acquisition of some or all of the leases, but the choice of options would be left to the Secretary.

Under the bill, if the Secretary thinks it is desirable, the Secretary is to seek the cooperation of the State of the New Mexico or other parties that own the non-Federal lands in the cave protection area, regarding restrictions on uses of those non-Federal lands the Secretary may suggest in order to further the protection of Lechuguilla Cave and the other significant cave resources of the national park and the cave protection area. Let me stress that there is nothing in the substitute that directly affects these non-Federal lands—we merely provide that the Secretary can seek the cooperation of their owners.

To supplement these provisions, the bill directs the Secretary of the Interior to use existing authority to the extent appropriate to protect Lechuguilla and the other significant cave resources covered by the bill, and directs that if this authority is inadequate, the Secretary is to inform the Natural Resources Committee and request additional authority.

The bill also provides some additional authority for control of collection of cave resources, as requested by the administration at our hearing.

Finally, the bill includes specific language to make clear that the bill will not affect the rights of any party to seek compensation for any claimed taking of property, through existing channels such as the Court of Claims.

Mr. Speaker, as I said, this substitute has been worked out on a bipartisan basis. I believe that it will provide appropriate protection for Lechuguilla and other significant cave resources in a way that so far as I know is acceptable to all concerned.

I want to express my appreciation for the cooperation and the contributions made by the gentleman from New Mexico [Mr. SKEEN] which made it possible for us to bring this measure before the House today. I urge the approval of the bill.

□ 1420

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN], the chief sponsor of this piece of legislation.

Mr. SKEEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I appreciate the efforts made by the chairman and ranking member of the National Parks, Forests, and Public Lands Subcommittee to work with me in developing legislation which protects Lechuguilla Cave and those leaseholders in my district who are directly affected by this bill. I am concerned about the idea of buffer zones and the cost to the taxpayer, but this bill represents a compromise which I helped draft and which I support completely.

Lechuguilla Cave is a world renowned natural resource located near Carlsbad National Park, formed from limestone and gypsum with many fractures and a very permeable bedrock. Over 60 miles of cave have been discovered so far, and yet this is estimated to be only 5 percent of its total mass. Truly this is one of the most extraordinary caves ever discovered.

This particular area and geological formation also happen to be very rich in oil and gas. The further this cave extends, the greater the potential for conflict due to the dangers associated

with hydrocarbon gases infiltrating Lechuguilla Cave and the Carlsbad Caverns. Hydrocarbon contamination of these internationally known natural wonders could pose a safety problem to researchers and visitors who may be in the caves at the time of a leak.

Mr. VENTO and I drafted this bill to protect this natural resource, as well as the researchers and visitors in the caves. And we made certain that oil producers and their constitutional rights are protected. If an active lease is affected, we should provide the fair market value compensation for the taking of their leases. I believe this should include the value at which the potential reserve is valued. Oil and gas producers spend millions of dollars developing the appropriate infrastructure, and many years of expertise are required before leases are acquired from the Federal Government. This bill does not authorize any appropriations; however, it does provide a mechanism for the lease owners to seek compensation.

Absent the drilling of a well, the Interior Department, or anyone else for that matter, cannot give absolute assurance that drilling activity will not have an adverse affect on the cave resources. Therefore, in my opinion, we must continue to work toward developing a strategy which will deal with future conflicts; it must be a reasonable solution which does not shut out the interests of the oil and gas producers.

It was January 28, 1991, when one of the owners of a lease, Yates Energy Corp., submitted an application to drill [APD] and was notified by BLM that the APD would not be approved within the normal 30 days. Two years later BLM had informed Yates that they are strongly considering a no-drill recommendation.

It is appropriate that we leave the decision of whether or not oil and gas production will have an effect upon Lechuguilla to the Secretary of the Interior. In this protected area which is the closest to the cave, we should prevent further oil and gas activity as long as we compensate the leaseholders. I believe this bill is a good compromise in this regard.

Again, I commend Chairman VENTO and Mr. HANSEN for giving this issue the heightened awareness that it deserves. I look forward to working with you to protect this cave and provide adequate compensation to the oil and gas industry which is vital to sustaining the current tax base in our rural communities.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first state my appreciation to Chairman VENTO for his willingness to work with the Member who represents the area, Mr. SKEEN, and those of us on this side of the aisle on this measure. I believe the net result of that cooperation is a much improved bill.

Let me also say from my own perspective, that while the bill we have today does adequately protect the interests of the leaseholders, I still have several concerns with the direction taken by this bill. First, of course is the buffer zone aspect of this measure. While I will not object to this site-specific buffer zone as it comes to protecting what is truly an outstanding cave of international renown, I must reiterate my general concerns with this approach to Federal land management.

Second, I must state my concern about the potential cost of this effort. Inasmuch as there has been drilling on these BLM lands adjacent to the park for over 20 years, and no impacts to park caves have been detected, I wonder if we are really justified in exposing the American taxpayer to a potential liability of tens of millions of dollars with this measure.

Having raised those concerns, I do not intend to oppose this measure and again want to thank Chairman VENTO for working with us on this measure.

□ 1430

Mr. HANSEN. Mr. Speaker, I ask for support of this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HEFNER). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 698, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CAVE CREEK CANYON PROTECTION ACT OF 1993

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 843) to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cave Creek Canyon Protection Act of 1993".

SEC. 2. WITHDRAWAL OF LANDS WITHIN CAVE CREEK CANYON DRAINAGE.

(a) WITHDRAWAL.—Subject to valid existing rights, after the date of enactment of this Act lands within the Cave Creek Canyon Drainage are withdrawn from entry, location, or patent under the general mining laws, the operation of the mineral and geothermal leasing laws and the mineral material disposal laws.

(b) DEFINITION.—For the purposes of this Act, the term "Cave Creek Canyon Drainage" means lands and interest in lands owned by the United States within the area depicted on the map of record entitled "Cave Creek Mineral Withdrawal", dated November 1, 1991. The map shall be on file and available for public inspection in the offices of the Forest Service, Department of Agriculture.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 843, the Cave Creek Protection Act, was introduced by Representative JIM KOLBE of Arizona.

The pending measure would withdraw, subject to valid existing rights, approximately 13,000 acres of public lands within Cave Creek Canyon in Arizona from the general mining laws, mineral leasing, and material sales statutes.

The Cave Creek Canyon is a sanctuary to many endangered and threatened plants, birds, and mammals. It has also been recognized as having a high potential for mineralization. Although there are no active plans or operations in the area today, there is no permanent mechanism, short of legislation, to protect this significant natural resource area.

I would conclude by saying that at the hearing we held on this bill in March, we received testimony in near universal support of the bill.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 843, the Cave Creek Canyon Protection Act sponsored by our colleague from Arizona, Mr. KOLBE. I'd like to take this opportunity to thank him for working through the proper legislative channels to see that this unique riparian area is protected.

Mr. Speaker, we passed a similar bill last Congress to set aside the Cave Creek drainage and I supported that bill despite misgivings I had regarding protection of valid existing rights for mining claim already staked in the canyon. This year's bill is actually an improvement in this regard and I wish to give my thanks to the new chairman of the subcommittee, Mr. LEHMAN of California, for agreeing to leave out the offending provision of last year's bill.

What we have in H.R. 843 is a simple withdrawal bill unencumbered by extraneous requirements of a retroactive nature. Cave Creek Canyon has been demonstrated to be a haven of extreme biological diversity because of its ecological setting, and I believe it ought to be specially recognized. On the other hand, we must not run roughshod over the property rights that may have been established under the public land laws prior to enactment of this bill. I am satisfied that in this instance we have done so, and I give the bill my unqualified support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I thank the chairman of the subcommittee, and I thank the ranking member of the subcommittee for their support for this bill and for yielding this time to me today.

Mr. Speaker, I rise in strong support of the Cave Creek Canyon Protection Act of 1993. Last year, this bill enjoyed widespread support in Congress, with both the Senate and the House passing the bill—regrettably not before it was too late in the session for the bill to become law.

This year, the House, with the leadership and assistance of Chairman LEHMAN, Chairman MILLER and ranking Members BARBARA VUCANOVICH and DON YOUNG, has moved quickly to bring the bill through the committee process to the House floor. I want to thank them for their support and hard work. I know that their support, like the support of so many people from southern Arizona and around the country, is a credit to this remarkable little place called Cave Creek Canyon.

I grew up near this area. For years I have enjoyed the spectacular beauty of the Chiricahua Mountains. Cave Creek and Portal, on the north side of the mountains, have been, until now, one of the best kept secrets among the many natural wonders in this country.

Cave Creek is magnificent. It is a place unparalleled in its diversity of species and plant life, its value to scientific researchers and recreational users, and its breathtaking beauty.

There is biodiversity unlike any other area of comparable size in the United States. Cave Creek is home to endangered species such as the peregrine falcon, the desert tortoise, and the Sanborn long-nosed bat. Javelina, jaguar, and jaguarundi frequent the area. Birds of all stripes and color also call Cave Creek home.

There are 13 species of hummingbirds and 12 species of owls, alone. That is more variety of hummingbirds than found anyplace else in the United States. The 50 trogons that use the canyon for breeding comprise half the U.S. population of this colorful tropic species.

Thick-billed parrots, not found any place else in the United States, are flourishing in the friendly confines of the canyon. Over 330 species of birds have been recorded in the area. This area is considered by many to be the single best birding spot in the country.

But we do not have to look to the sky over Cave Creek to find unusual, astonishing animal species. There's the exotic Chiricahua leopard frogs, the green rat snakes, and the Yacqui black-headed snakes that occupy the canyon, and on and on. Studying the area's plant and animal life is like looking in Who's Who of rare and exotic species.

The scientific value of the region is immeasurable, resulting in almost 1,000 disparate scientific publications, many outlining new discoveries in ecology, toxicology, and evolutionary biology. For example, research on scorpion venom is being conducted at Cave Creek to determine its possible use in treating human neurological diseases. The presence of the Southwestern Research Station of the American Museum of Natural History has played a significant role in much of this research. It is not a stretch to say that this region has produced more scientific discovery and achievement than any other area in the world of comparable size.

The scenic values are also spectacular. Perhaps A.B. Gray summed up the beauty of the canyon in 1854 when he wrote in his journal:

> The view of this canon[sic] in the morning, with the sunlight reflected from its deep recesses, and upright wall rising majestically on all sides to a height of several thousand feet, tapering like spires amid the clouds, presented a scene of grandeur and beauty.

Mr. Speaker, as those words, written 140 years ago suggest, these lands truly are magnificent. But a lot of other public lands could fit this description as well. That doesn't mean beautiful scenery should automatically preclude other, productive uses of land. That's why I support multiple use of public lands. I believe that mining, grazing, recreation, among others, are valuable and legitimate uses of public lands. However, we should recognize there are some places so unique and so special that mining activity, with its physical scarring and ecological disruption, would be inappropriate. Cave Creek is such an area.

The Cave Creek Canyon Protection Act of 1993 is a simple bill. Like its predecessor, it protects lands in Cave Creek from mineral activity. This bill is virtually identical to the one I introduced last Congress and that passed the Senate in the final hours of the session.

This bill must become law soon. Forest Service protection, through an administrative withdrawal, will expire September 27, 1993, leaving the area open to possible mining operations. We have come too far to allow this to happen.

This process started when the Forest Service approved a plan of operations for exploratory drilling in the Cave Creek area. The plan was approved November 23, 1990, and subsequently appealed on January 7, 1991, by the Portal Mining Action Coalition. On December 21, 1990, before the appeal, Newmont decided to defer mineral activity for 1 year in order to allow interested parties to seek a withdrawal from mining activities of the area.

At the request of local residents and others in southeastern Arizona, as well as hundreds of people from around the country, I introduced the original bill in June 1991 to accomplish a legislative withdrawal of the Cave Creek area. The original bill and this bill are the product of extensive discussions with all interested parties. It would prevent only mining activity in the area. Other uses would be unaffected.

Following the introduction of the original bill, the Forest Service announced its own administrative withdrawal of Cave Creek for 2 years to allow consideration of its proposal to establish a national recreation area in the Coronado National Forest. Its proposal had included the area proposed for withdrawal in the original bill. Subsequent to that announcement, Newmont withdrew its request for exploratory drilling operations in the area.

The Forest Service, however, shelved its national recreation proposal and the 2-year withdrawal period is quickly expiring. Simply put, Congress must act and act quickly to assure protection of this irreplaceable gem called Cave Creek Canyon.

We would not be here today if the citizens from southern Arizona and around the country had not worked so hard to bring to Congress' attention this threat to the Canyon. This legislation represents a grassroots effort and, with passage today, we will demonstrate that Congress does listen to the people.

I urge my colleagues to support the Cave Creek Canyon Protection Act. A vote for this bill is a vote to preserve a national treasure for future generations.

Mr. LEHMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to join my colleagues on both the Republican and Democratic sides of the aisle in supporting this legislation.

I do want to note though, in referring back to the debate on the Gallatin land exchange bill which is my bill, that debate occurred about one-half hour ago, and there were objections by some of the Republican side because there was a cost in that bill. My bill probably costs as much as the last bill that was

talked about here on the floor, and yet there was no mention made whatsoever of the cost of that bill.

CBO says, at least at the time this bill reaches the floor, the bill now under consideration, they do not know what the cost is going to be.

There is another bill that is going to be coming up pretty soon which is the Reserve officers' personnel management. The cost of that bill is going to be $500,000.

Many of these bills will cost money. The Congress would not have them out on the floor if we did not believe that cost was worthwhile. That is what the votes are going to be about.

I just suggest that there may be more going on here with the attack on the bill to preserve the boundary around an area around Yellowstone National Park than really meets the eye in this Chamber, and I want to join my colleagues again on both sides of the aisle in supporting this Cave Creek Canyon Protection Act as well as the next few bills that are going to come before use today.

Some of the costs are minimal, but they are in the public good that we are doing this, just as it is in the public good that we protect this huge forested area north of the Nation's first park, Yellowstone National Park.

Mrs. VUCANOVICH. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I just want to assure the last speaker, the gentleman from Montana, that there is no clandestine reason why we are going after that 70,000 acres in Gallatin National Park.

My experience is that there should be a land trade there. We should not be spending up to $20 million, or one-third, of the Park Service's land acquisition moneys just for this one purpose.

I can assure him that there is no clandestine reason. I hope that issue is not raised in the minds of my colleagues.

We are simply going after this because it is going to cost, we believe, up to $20 million, and we do not need to spend the money, and we should not.

Mr. LEHMAN. Mr. Speaker, I yield 1 minute to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, I just wanted to follow to the floor here my colleague, the gentleman from Montana, who made a very good point about the bills that are coming up on suspension today that have come out of the Natural Resources Committee generally with unanimous agreement, Mr. Speaker. They have come to the floor where we have worked these things out.

We are not in the Committee of the Whole, and we have charts on the floor of the House of Representatives that do not even say anything about the land and water conservation fund, and my colleague and neighbor from Montana is doing the best he can to move legislation here to help his district. Yet we have these bogus arguments that are coming to the floor of the House without any documentation whatsoever.

I am a little chagrined that my neighbor, the gentleman from Montana [Mr. WILLIAMS], cannot bring an issue to the floor of the House here, that cannot come through here with a spirit of comity that they moved through the whole committee system, and I am just sort of here in wonderment about what truly is going on.

My colleague, the gentleman from Indiana, says that there is nothing clandestine, and I take him at his word, Mr. Speaker. But I just wonder why we cannot move some bills through here and be honest with our colleagues and honest, Mr. Speaker, with the people in America about what is truly going on here with the purse strings.

Because, as you know, Mr. Speaker, in the land and water conservation fund, we are not dealing with that here on the floor of the House here today. We are dealing with these issues.

Mrs. VUCANOVICH. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, could I ask the gentleman from Idaho a question, a real quick question?

I just wanted to ask if he knew that 80 percent of the Republican Members, 80 percent of the Republican Members on that committee signed dissenting views on this particular piece of legislation, the Gallatin Park that he is talking about?

Mr. LAROCCO. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Idaho.

Mr. LAROCCO. I did not see any of the gentlemen speaking here. It would be nice if the people who are on the committee would come and really pound the table for their position. They did not. They did not do it in the committee forcefully, and so here we are at this juncture.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN. Mr. Speaker, I yield myself 1 minute only to point out that the bill before us has nothing to do with the prior discussion.

This is a noncontroversial measure to protect Cave Creek in the district of the gentleman from Arizona [Mr. KOLBE]. There is no opposition.

I urge an "aye" vote.

Mr. LEHMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VENTO). The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 843, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BODIE PROTECTION ACT OF 1993

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 240) to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bodie Protection Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghosttown character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 4(a).

(2) The term "mineral activities" means any activity involving mineral prospecting, explo-

ration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 4. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICTION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the entry or location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practicable after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in this subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statues (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before January 11, 1993; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 5. MINERAL ACTIVITIES.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this Act and other applicable law, the Secretary shall require that mineral activities be conducted in the Bodie Bowl so as to—

(1) avoid adverse effects on the historic, cultural, recreational and natural resource values of the Bodie Bowl; and

(2) minimize other adverse impacts to the environment.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (d).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate rules to implement this section, in consultation with the Governor of the State of California, within 180 days after the date of enactment of this Act. Such rules shall be no less stringent than the rules promulgated pursuant to the Act of September 28, 1976 entitled "An Act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes" (Public Law 94-429; 16 U.S.C. 1901-1912).

SEC. 6. STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 240, the Bodie Protection Act of 1993, would protect the valuable historic and recreational resources of California's Bodie State Historic Park and National Historic Landmark from potential mineral activities on Bureau of Land Management acreage adjacent to the park. The bill, as amended, is similar to a bill which the House approved last year.

The 19th century Bodie mining district is located east of the Sierra Nevada Mountains in Yosemite National Park, California. Today over 200,000 tourists visit Bodie every year to see the 100-plus buildings still standing in the West's oldest mining town. At Bodie, visitors can see firsthand how people lived in the mining camps that cropped up throughout California in the aftermath of the discovery of gold at Sutters Mill in 1848; a discovery that gave rise to the world famous California Gold Rush.

While Bodie stands as testament to the mining days of old—and despite its status as a national landmark and state park—the area is in jeopardy from the threat of modern-day mining activities. In order to extract and process the gold and silver believed to be in the area surrounding Bodie, large-scale mining techniques, such as strip mining, heap-leach piles, cyanide spraying and waste ponds, most likely would be required.

The 450-acre Bodie State Historic Park is closed to mining. However, the area adjacent to the State park and under BLM jurisdiction is open to mining and as such poses a threat to the historic district. In recognition of this danger, the BLM has recently designated the Bowl Bodie as an area of critical environmental concern and—consistent with this legislation—is recommending that the area be closed to mining.

H.R. 240 would provide some additional protections to Bodie in order to preserve its historic and visual integrity. The pending measure would put the nearly 6,000 acres of public land within the Bodie Bowl off-limits to mining under the general mining laws. Mining on valid claims would be allowed to proceed under rules designed to protect the area's important historic and cultural resources. In addition, mining claims could not be patented in the Bodie Bowl except where rights had vested by January 11, 1993. Finally, the bill would require the Secretary of the Interior to review possible actions to preserve the cultural

and natural values of the Bodie Bowl and report back to Congress within 3 years.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, regrettably I rise in opposition to H.R. 240, a bill to protect the historic Bodie ghost town from the potential effects of modern mining. My chairman and I clearly have a difference of opinion here on what may or may not be necessary to preserve the experience of visitors to Bodie State Park.

Mr. Speaker, I like to consult the views of the Member of Congress representing an affected area before sitting in judgment on public lands issues. In this case, Chairman LEHMAN no longer represents Mono County, rather it is Mr. DOOLITTLE, a member of the subcommittee. He is opposed to the measure as a heavy-handed approach to providing adequate protection to Bodie ghost town, and so am I.

Beyond the dispute, however, on how best to protect what I agree is an important vestige of our mining past, lies a very troublesome question: What protection do we grant to existing property rights holders in the Bodie Bowl before launching into a rigorous regulation of their potential activities under the 1872 mining law? In the past, the Congress has seen fit to protect valid existing rights. Instead, today we embark upon a new philosophy whereby we affirmatively set a retroactive cut-off date for mining claimants to apply to patent their claims and gain fee simple title to the land.

Mr. Speaker, I am aware of no claimants that seek to patent their interests in the Bodie Bowl, but it is the precedent we are establishing here that bothers me. Generic mining law reforms bills in both Houses of the 103d Congress likewise would deny miners an ability to even attempt to patent their claims—with or without terms and conditions in those patents—because a date impossible to meet is in those bills as well. Whether or not one agrees with me that this provision may be a taking of a miner's property rights, I firmly believe we ought not to be legislating the cutoff of rights in such a cavalier manner. What is so bad about using the date of enactment, or better still, a future date certain, by which all miners that choose to seek patent must come forward to apply?

Mr. Speaker, that is what we have just done with the Cave Creek Canyon bill immediately prior to this one. While I do not ask for a vote on H.R. 240, I am confident the other body will look askance at this provision and modify it before sending it back.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN. First of all, Mr. Speaker, I yield myself 2 minutes to indicate that all of the jurisdictions charged with looking after the Bodie area support protection of the area. First of all, the local government agency, the Mono County board of supervisors, supports this legislation and Federal protection for the area surrounding the Bodie Bowl; the State of California, through the California State park and recreation commission, supports the legislation, withdrawal of these lands for protection of the Bodie Bowl; the Bureau of Land Management has already stated that the land around the Bowl should be withdrawn from mineral entry. Hundreds of citizens of the area and the National Trust for Historic Preservation and numerous local and national environmental groups have expressed their concern that we pass this legislation and protect this resource.

This is something that is unique in all the United States. We are not making another area here a park, we are not making another area a recreation area; there is nothing else in the United States like Bodie, no place where a resource as precious as this remains. This is the one last chance we have to protect this part of the Old West. We are not asking for great sacrifice here to do this, a very small one supported by all of the interested parties in the area and at the same level as well.

I urge my colleagues to support this legislation.

Mr. LEHMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VENTO). The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 240, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was agreed to.

A motion to reconsider was laid on the table.

RESERVE OFFICER PERSONNEL MANAGEMENT ACT

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1040) to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the Reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the Reserve components, and for other purposes as amended.

The Clerk read as follows:

H.R. 1040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Reserve Officer Personnel Management Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.

TITLE I—RESERVE OFFICER PERSONNEL MANAGEMENT

PART A—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

Sec. 101. Promotion and retention of reserve officers.

PART B—CONFORMING AMENDMENTS

Sec. 111. Definition of reserve active-status list.
Sec. 112. Authority to suspend officer personnel laws during war or national emergency.
Sec. 113. Active-duty list promotion boards to have authority to recommend that reserve officers considered for promotion be required to show cause for retention on active duty.
Sec. 114. Applicability of chapter 36 to reserve officers during war or national emergency.
Sec. 115. Grade in which reserve officers are ordered to active duty.
Sec. 116. Date of rank.
Sec. 117. Discharge before completion of required service in case of officers having twice failed of selection for captain or navy lieutenant.
Sec. 118. Conforming amendments relating to Navy and Marine Corps officers.
Sec. 119. Repeal of reserve officer personnel policy laws.
Sec. 120. Amendments to title 32, United States Code.

TITLE II—OTHER PERSONNEL POLICY AMENDMENTS

PART A—APPOINTMENTS

Sec. 201. Repeal of separate authority for accession of women in reserve components.
Sec. 202. Appointment authority for reserve grades of lieutenant colonel and commander.
Sec. 203. Appointment of former commissioned officers in reserve components.
Sec. 204. Constructive credit for appointment of officers in reserve components with qualifying education or experience.
Sec. 205. Computation of years of service for transfer of Army officers to Retired Reserve.
Sec. 206. Repeal of miscellaneous obsolete appointment authorities.

PART B—SEPARATION AND RETIREMENT

Sec. 221. Computation of highest grade in which satisfactorily served for reserve commissioned officers and former officers.

PART C—OTHER AMENDMENTS

Sec. 241. Tenure in office of Chief of National Guard Bureau.
Sec. 242. Right to reenlist in Regular Army or Regular Air Force after service as an officer.

TITLE III—REORGANIZATION AND CONSOLIDATION OF LAWS RELATING TO RESERVE COMPONENTS

Sec. 301. Laws relating to organization and administration of reserve components.

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Sec. 302. Laws relating to reserve component personnel policy.
Sec. 303. Laws relating to reserve component training and educational assistance programs.
Sec. 304. Laws relating to reserve component procurement and equipment.
Sec. 305. Legislative construction.

TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 401. Amendments to subtitle A of title 10, United States Code.
Sec. 402. Amendments to subtitle B of title 10, United States Code.
Sec. 403. Amendments to subtitle C of title 10, United States Code.
Sec. 404. Amendments to subtitle D of title 10, United States Code.
Sec. 405. Amendments to subtitle E of title 10, United States Code.
Sec. 406. Amendments to titles 32 and 37, United States Code.
Sec. 407. Amendments to other laws.

TITLE V—TRANSITION PROVISIONS

Sec. 501. Continuation on the reserve active-status list of certain reserve colonels of the Army and Air Force.
Sec. 502. Effects of selection for promotion and failure of selection for Army and Air Force officers.
Sec. 503. Effects of selection for promotion and failure of selection for Navy and Marine Corps officers.
Sec. 504. Delays in promotions and removals from promotion list.
Sec. 505. Minimum service qualifications for promotion.
Sec. 506. Establishment of reserve active-status list.
Sec. 507. Preservation of relative seniority under the initial establishment of the reserve active-status list.
Sec. 508. Grade on transfer to the Retired Reserve.
Sec. 509. Rights for officers with over three years service.
Sec. 510. Mandatory separation for age for certain reserve officers of the Navy and Marine Corps.

TITLE VI—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

Sec. 601. Effective date.
Sec. 602. Preservation of suspended status of laws suspended as of effective date.
Sec. 603. Preservation of pre-existing rights, duties, penalties, and proceedings.

SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

TITLE I—RESERVE OFFICER PERSONNEL MANAGEMENT

PART A—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

SEC. 101. PROMOTION AND RETENTION OF RESERVE OFFICERS.

Title 10, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle E—Reserve Components

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap. Sec.
"1001. Definitions 10001
"1003. Reserve Components Generally 10101
"1005. Elements of Reserve Components 10141
"1007. Administration of Reserve Components 10201
"1009. Reserve Forces Policy Boards and Committees 10301
"1011. National Guard Bureau 10501
"1013. Budget Information and Annual Reports to Congress 10541

"PART II—PERSONNEL GENERALLY

"1201. Authorized Strengths and Distribution in Grade 12001
"1203. Enlisted Members 12101
"1205. Appointment of Reserve Officers 12201
"1207. Warrant Officers 12241
"1209. Active Duty 12301
"1211. National Guard Members in Federal Service 12401
"1213. Special Appointments, Assignments, Details, and Duties 12501
"1215. Miscellaneous Prohibitions and Penalties—[No present sections]
"1217. Miscellaneous Rights and Benefits 12601
"1219. Standards and Procedures for Retention and Promotion 12641
"1221. Separation 12681
"1223. Retired Pay for Non-Regular Service 12731
"1225. Retired Grade 12771

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"1601. Training Generally—[No present sections]
"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments .. 16301

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"1801. Issue of Serviceable Material to Reserve Components—[No present sections]
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"Chap. Sec.
"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
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"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS

"Sec.
"14001. Applicability of this part.
"14002. Reserve active-status lists: requirement for each armed force.
"14003. Reserve active-status lists: position of officers on the list.
"14004. Reserve active-status lists: eligibility for Reserve promotion.
"14005. Competitive categories.
"14006. Determination of years in grade.

"§ 14001. Applicability of this part

"This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

"§ 14002. Reserve active-status lists: requirement for each armed force

"(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

"(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The Secretary of the Navy shall maintain separate lists for the Naval Reserve and the Marine Corps Reserve.

"§ 14003. Reserve active-status: position of officers on the list

"(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

"§ 14004. Reserve active-status lists: eligibility for Reserve promotion

"Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

"§ 14005. Competitive categories

"Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

"§ 14006. Determination of years in grade

"For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

"CHAPTER 1403—SELECTION BOARDS

"Sec.
"14101. Convening of selection boards.
"14102. Selection boards: appointment and composition.
"14103. Oath of members.
"14104. Confidentiality of board proceedings.
"14105. Notice of convening of selection board.
"14106. Communication with board by officers under consideration.
"14107. Information furnished by the Secretary concerned to promotion boards.
"14108. Recommendations by promotion boards.
"14109. Reports of promotion boards: in general.
"14110. Reports of promotion boards: review by Secretary.
"14111. Reports of selection boards: transmittal to President.
"14112. Dissemination of names of officers selected.

"§ 14101. Convening of selection boards

"(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Naval Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a 'promotion board'.

"(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall (except in the case of a board convened to consider officers as provided in section 14301(e) of this title) be known as a 'vacancy promotion board'. Any other promotion board convened under this subsection shall be known as a 'mandatory promotion board'.

"(b) CONTINUATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

"(1) for continuation on the reserve active-status list under section 14701 of this title;

"(2) for selective early removal from the reserve active-status list under section 14704 of this title; or

"(3) for selective early retirement under section 14705 of this title.

A selection board convened under this subsection shall be known as a 'continuation board'.

"§ 14102. Selection boards: appointment and composition

"(a) APPOINTMENT.—Members of selection boards convened under section 14101 shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Continuation boards shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

"(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

"(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

"(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

"§ 14103. Oath of members

"Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

"§ 14104. Confidentiality of board proceedings

"Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"§ 14105. Notice of convening of promotion board

"(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

"(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

"§ 14106. Communication with board by officers under consideration

"Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so as to arrive not later than the date on which the board convenes. The board shall give consideration to any timely communication under this section.

"§ 14107. Information furnished by the Secretary concerned to promotion boards

"(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

"(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

"(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

"(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

"(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

"(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

"(3) Information provided to a promotion board in accordance with paragraph (2) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

"(4) Paragraphs (2) and (3) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

"(5) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2) may not be furnished to a later promotion board unless—

"(A) the information has been properly placed in the official military personnel file of the officer concerned; or

"(B) the information is provided to the later selection board in accordance with paragraph (2).

"(6)(A) Before information described in paragraph (2)(B) regarding an eligible officer is furnished to a selection board, the Sec-

retary of the military department concerned shall ensure—

"(i) that such information is made available to such officer; and

"(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

"(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an appropriate summary of the information.

"(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

"(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

"(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

"(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

"(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

"(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

"(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

"(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Naval Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

"§ 14108. Recommendations by promotion boards

"(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under sections 14107 of this title).

"(b) MAJORITY REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

"(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

"(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

"(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

"(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

"§ 14109. Reports of promotion boards: in general

"(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

"(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

"(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

"(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

"(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.

"(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

"§ 14110. Reports of promotion boards: review by Secretary

"(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

"(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

"§ 14111. Reports of selection boards: transmittal to President

"(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

"(b) REMOVAL OF NAME FROM BOARD REPORT.—The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

"(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an

officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

"§ 14112. Dissemination of names of officers selected

"Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"CHAPTER 1405—PROMOTIONS

"Sec.
"14301. Eligibility for consideration for promotion: general rules.
"14302. Promotion zones.
"14303. Eligibility for consideration for promotion: minimum years of service in grade.
"14304. Eligibility for consideration for promotion: maximum years of service in grade.
"14305. Establishment of promotion zones: mandatory consideration for promotion.
"14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system.
"14307. Numbers of officers to be recommended for promotion.
"14308. Promotions: how made.
"14309. Acceptance of promotion: oath of office.
"14310. Removal of officers from a list of officers recommended for promotion.
"14311. Delay of promotion: involuntary.
"14312. Delay of promotion: voluntary.
"14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half).
"14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general.
"14315. Position vacancy promotions: Army and Air Force officers.
"14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion.
"14317. Officers in transition to and from the active-status list or active-duty list.

"§ 14301. Eligibility for consideration for promotion: general rules

"(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

"(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

"(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

"(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

"(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade—

"(1) an officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title;

"(2) an officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to the next higher grade as a reserve of the Army or of the Air Force as the case may be; or

"(3) an officer who has been nominated by the President for promotion to the next higher grade under any other provision of law.

"(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion.

"(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.

"(f) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel, colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

"(g) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.

"§ 14302. Promotion zones

"(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

"(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Naval Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

"(3) Those officers who—

"(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

"(B) have not failed of selection for promotion to that next higher grade; and

"(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

"(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are senior to the senior officer in the promotion zone for that competitive category.

"(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are junior to the junior officer in the promotion zone for that competitive category.

"§ 14303. Eligibility for consideration for promotion: minimum years of service in grade

"(a) OFFICERS IN PAY GRADES O-1 AND O-2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

"(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(b) OFFICERS IN PAY GRADES O-3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

"(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

"(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

"(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

"§ 14304. Eligibility for consideration for promotion: maximum years of service in grade

"(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

"Current Grade	Maximum years of service in grade
"First lieutenant or Lieutenant (junior grade)	5 years
"Captain or Navy Lieutenant	7 years
"Major or Lieutenant commander	7 years

"(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

"(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

"(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

"(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM.—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

"§ 14305. Establishment of promotion zones: mandatory consideration for promotion

"(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

"(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

"(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

"(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

"(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

"§ 14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system

"(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

"(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

"(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

"§ 14307. Number of officers to be recommended for promotion

"(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 14101(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill va-

cancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

"(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

"(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

"(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

"§ 14308. Promotions: how made

"(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list.

"(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

"(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

"(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

"(2) Except as specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

"(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

"(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

"(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

"(2) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

"(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

"(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army. A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.

"§ 14309. Acceptance of promotion; oath of office

"(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

"(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

"§ 14310. Removal of officers from a list of officers recommended for promotion

"(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

"(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

"(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

"§ 14311. Delay of promotion: involuntary

"(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

"(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

"(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

"(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

"(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

"(2) If disciplinary action is not taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, or if the officer is acquitted of the charges, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list, list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade, the officer shall be retained on the promotion list, the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

"(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

"(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

"(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

"(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

"(3) The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

"(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

"§ 14312. Delay of promotion: voluntary

"(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

"(2) Regulations under this section shall provide that—

"(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

"(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

"(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

"(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

"(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

"(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

"(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

"§ 14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

"(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

"(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Naval Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

"(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

"§ 14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

"(a) GENERAL OFFICERS.—Within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

"(1) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

"(2) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

"(3) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

"(4) Discharge the officer from the officer's reserve appointment.

"(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

"(1) withdraw that officer's Federal recognition; and

"(2) require that the officer—

"(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

"(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer of the Air Force immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

"(C) be discharged from the officer's reserve appointment.

"(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

"§ 14315. Position vacancy promotions: Army and Air Force officers

"(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a Reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

"(1) The officer is occupying or, as determined by the Secretary concerned, is available to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

"(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

"(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

"(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

"(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

"(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

"(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

"(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"§ 14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

"(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

"(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

"(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

"(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

"(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

"§ 14317. Officers in transition to and from the active-status list or active-duty list

"(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

"(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

"(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

"(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

"(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

"(d) OFFICERS SELECTED FOR POSITION VACANCIES.—If a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14314 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty. If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

"(e) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency

may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 10213 or 644 of this title.

"CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

"Sec.
"14501. Failure of selection for promotion.
"14502. Special selection boards: correction of errors.
"14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).
"14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy.
"14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
"14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy.
"14507. Removal from the active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy.
"14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
"14509. Separation at age 60: reserve officers below brigadier general or rear admiral (lower half).
"14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half).
"14511. Separation at age 62: major generals and rear admirals.
"14512. Separation at age 64: officers holding certain offices.
"14513. Separation for failure of selection of promotion.
"14514. Discharge or retirement for years of service or after selection for early removal.
"14515. Discharge or retirement for age.
"14516. Separation to be considered involuntary.
"14517. Entitlement of officers discharged under this chapter to separation pay.

"§ 14501. Failure of selection for promotion

"(a) An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Naval Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

"(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

"(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

"(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

"(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

"(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

"(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

"§ 14502. Special selection boards: correction of errors

"(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

"(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

"(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a selection board but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

"(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the selection board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

"(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the selection board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

"(c) REPORT.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

"(d) APPLICABLE PROVISIONS.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

"(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allow-

ances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

"(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

"(f) TIME LIMITS FOR CONSIDERATION.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

"(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

"(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

"(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

"(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

"(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

"(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

"(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

"§ 14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

"(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

"(1) has less than five years of service in an active status as a commissioned officer; or

"(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

"(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

"(A) may be discharged at any time after being found not qualified for promotion; and

"(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(2) Paragraph (1) shall not apply if the officer is sooner promoted.

"(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

"§ 14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

"(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

"§ 14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

"Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"§ 14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy

"Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the first day of the month after the month in which the officer completes 20 years of commissioned service.

"§ 14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

"(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

"(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

"§ 14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

"(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of brigadier general or rear admiral (lower half), whichever is later, be separated in accordance with section 14514 of this title.

"(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance fith section 14514 of this title.

"(c) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under this subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be,

be retained in an active status, but not later than the date on which the officer becomes 60 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(d) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under this subsection (b) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(e) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

"§ 14509. Separation at age 60: reserve officers in grades below brigadier general or rear admiral (lower half)

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

"§ 14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 60 years of age.

"§ 14511. Separation at age 62: major generals and rear admirals

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

"§ 14512. Separation at age 64: officers holding certain offices

"(a) ARMY AND AIR FORCE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State, shall on the last day of the month in which the officer becomes 64 years of age, be separated in accordance with section 14515 of this title.

"(b) NAVY AND MARINE CORPS.—The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 64 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines.

"§ 14513. Separation for failure of selection of promotion

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

"(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

"(2) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

"§ 14514. Discharge or retirement for years of service or after selection for early removal

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment.

"§ 14515. Discharge or retirement for age

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment.

"§ 14516. Separation to be considered involuntary

"The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

"§ 14517. Entitlement of officers discharged under this chapter to separation pay

"An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

"CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

"Sec.
"14701. Selection of officers for continuation on the reserve active-status list.
"14702. Retention on reserve active-status list of certain officers until age 60.
"14703. Authority to retain chaplains and officers in medical specialties until specified age.
"14704. Selective early removal from the reserve active-status list.
"14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.
"14706. Computation of total years of service.

"§ 14701. Selection of officers for continuation on the reserve active-status list

"(a) CONSIDERATION FOR CONTINUATION.—(1) Upon application, a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list by a selection board convened under section 14101(b) of this title.

"(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

"(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

"(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

"(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

"(6) An officer who is selected for continuation on the reserve active-status list as a result of the convening of a selection board under section 14101(b) of this title but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

"(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers rec-

ommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

"§ 14702. Retention on reserve active-status list of certain officers until age 60

"(a) RETENTION.—Notwithstanding the provisions of section 14506 or 14507 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, or colonel who is—

"(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

"(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

"(b) SEPARATION AT AGE 60.—An officer may be retained under this section only so long as the officer continues to meet the conditions of subsection (a)(1) or (a)(2). An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.

"§ 14703. Authority to retain chaplains and officers in medical specialties until specified age

"(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

"(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

"(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

"(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, veterinary officer, Air Force nurse, or claplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist.

"(b) SEPARATION AT SPECIFIED AGE.—An officer may not be retained in active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age).

"§ 14704. Selective early removal from the reserve active-status list

"(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider all officers on that list who are in that grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from the reserve active-status list, in the number specified by the Secretary by each grade and competitive category.

"(b) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

"(c) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

"§ 14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

"(a) AUTHORITY TO CONSIDER.—An officer in the Naval Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

"(b) BOARDS.—If the Secretary of the Navy determines that consideration for early retirement under this section is necessary, the Secretary shall convene a board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

"§ 14706. Computation of total years of service

"For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer).

"CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

"Sec.

"14901. Separation of chaplains for loss of professional qualifications.

"14902. Separation for substandard performance and for certain other reasons.

"14903. Boards of inquiry.

"14904. Rights and procedures.

"14905. Officer considered for removal: retirement or discharge.

"14906. Officers eligible to serve on boards.

"14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

"§ 14901. Separation of chaplains for loss of professional qualifications

"(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title.

"(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

"§ 14902. Separation for substandard performance and for certain other reasons

"(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

"(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

"(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

"§ 14903. Boards of inquiry

"(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

"(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this chapter to show cause for retention in an active status.

"(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned

that the officer not be retained in an active status.

"(d) ACTION BY SECRETARY.—After review of the recommendation of the board of inquiry, the Secretary may—

"(1) remove the officer from an active status; or

"(2) determine that the case be closed.

"(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

"(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention under such subsection during the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

"§ 14904. Rights and procedures

"(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

"(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

"(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§ 14905. Officer considered for removal: retirement or discharge

"(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement;

"(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

"(3) for discharge in accordance with subsection (b)(3).

"(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

"(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

"(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

"(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

"§ 14906. Officers eligible to serve on boards

"(a) COMPOSITION OF BOARDS.—(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.

"(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

"§ 14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

"(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

"(1) terminate the reserve appointment of the officer; and

"(2) withdraw the officer's Federal recognition as an officer of the National Guard.

"(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.".

PART B—CONFORMING AMENDMENTS

SEC. 111. DEFINITION OF RESERVE ACTIVE-STATUS LIST.

Section 101(c) is amended by adding at the end the following new paragraph:

"(7) The term 'reserve active-status list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.".

SEC. 112. AUTHORITY TO SUSPEND OFFICER PERSONNEL LAWS DURING WAR OR NATIONAL EMERGENCY.

(a) AUTHORITY.—Section 123 is amended to read as follows:

"§ 123. Authority to suspend officer personnel laws during war or national emergency

"In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.".

(b) CONFORMING REPEAL.—Section 644 is repealed.

SEC. 113. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE AUTHORITY TO RECOMMEND THAT RESERVE OFFICERS CONSIDERED FOR PROMOTION BE REQUIRED TO SHOW CAUSE FOR RETENTION ON ACTIVE DUTY.

Section 617(b) is amended—

(1) by inserting "or reserve" after "any regular"; and

(2) by inserting "or 1411" after "chapter 60".

SEC. 114. APPLICABILITY OF CHAPTER 36 TO RESERVE OFFICERS DURING WAR OR NATIONAL EMERGENCY.

Section 641 is amended—

(1) by inserting "(a)" before "Officers in the following"; and

(2) by adding at the end the following:

"(b) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.".

SEC. 115. GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY.

Section 689 is amended—

(1) by inserting "or full-time National Guard duty" after "active duty" the first two places it appears; and

(2) by inserting "and placed on the active-duty list" after "active duty" the third place it appears.

SEC. 116. DATE OF RANK.

Section 741(d)(3) is amended—

(1) by inserting "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list" after "warrant officer (W-5)";

(2) by inserting "or reserve active-status list" after "active-duty list" the second place it appears; and

(3) by adding at the end: "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.".

SEC. 117. DISCHARGE BEFORE COMPLETION OF REQUIRED SERVICE IN CASE OF OFFICERS HAVING TWICE FAILED OF SELECTION FOR CAPTAIN OR NAVY LIEUTENANT.

Section 1005(b) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

"(4) an officer whose discharge or transfer from an active status is required by law.".

SEC. 118. CONFORMING AMENDMENTS RELATING TO NAVY AND MARINE CORPS OFFICERS.

Section 6389 is amended—

(1) in subsection (a)—

(A) by inserting "while on the active-duty list" after "to the next higher grade"; and

(B) by striking out the period at the end and inserting in lieu thereof "or released from active duty and placed on the reserve active-status list.";

(2) in subsection (b), by striking out "or (f)";

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking out "lieutenant commander or above" both places it appears and inserting in lieu thereof "lieutenant commander or commander";

(C) by striking out "major or above" both places it appears and inserting in lieu thereof "major or lieutenant colonel";

(D) by inserting "while on the active-duty list" after "to the next higher grade" in the first sentence; and

(E) in the table—

(i) by striking out the line relating to the grades of captain in the Navy and colonel in the Marine Corps; and

(ii) by striking out "26 years" and inserting in lieu thereof "28 years";

(F) by designating the sentence after the table as paragraph (2) and in that sentence striking out "the first sentence of this subsection" and inserting in lieu thereof "the first sentence of paragraph (1)";

(G) by designating the next sentence as paragraph (3) and in that sentence striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(H) by designating the last sentence as paragraph (4) and in that sentence—

(i) striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(ii) striking out "captain or"; and

(4) by striking out subsections (e), (f), and (g).

SEC. 119. REPEAL OF RESERVE OFFICER PERSONNEL POLICY LAWS.

(a) ARMY PROVISIONS.—

(1) Chapter 337, relating to appointments as reserve officers (other than sections 3351 and 3352), is repealed.

(2) Chapter 361, relating to separation for various reasons, is repealed.

(3) Chapter 363, relating to separation or transfer to the Retired Reserve, is repealed.

(b) NAVY AND MARINE CORPS PROVISIONS.—

(1) Chapter 541, relating to running mates as reserve officers, is repealed.

(2) Chapter 549, relating to reserve promotions, is repealed.

(3) Sections 6391, 6392, 6397, 6403, and 6410 are repealed.

(c) AIR FORCE PROVISIONS.—

(1) Chapter 837, relating to appointments as reserve officers (other than sections 8351 and 8352), is repealed.

(2) Sections 8819 and 8820 are repealed.

(3) Chapter 863, relating to separation or transfer to the Retired Reserve, is repealed.

SEC. 120. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Title 32, United States Code, is amended as follows:

(1) Sections 309 and 310 are amended to read as follows:

"§ 309. Federal recognition of National Guard officers: officers promoted to fill vacancies

"Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

"§ 310. Federal recognition of National Guard officers: automatic recognition

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.".

(2) Section 323 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

"(1) federally recognized as an officer of the National Guard; and

"(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.".

TITLE II—OTHER PERSONNEL POLICY AMENDMENTS

PART A—APPOINTMENTS

SEC. 201. REPEAL OF SEPARATE AUTHORITY FOR ACCESSION OF WOMEN IN RESERVE COMPONENTS.

(a) ENLISTMENTS.—Section 510 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) APPOINTMENT OF OFFICERS.—Section 591 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 202. APPOINTMENT AUTHORITY FOR RESERVE GRADES OF LIEUTENANT COLONEL AND COMMANDER.

Section 593(a) is amended—

(1) in the first sentence, by striking out "Reserves in commissioned grades below lieutenant colonel and commander" and inserting in lieu thereof "reserve officers in commissioned grades of lieutenant colonel and commander or below"; and

(2) in the second sentence, by striking out "Reserves in commissioned grades above major and lieutenant commander" and inserting in lieu thereof "reserve officers in commissioned grades above lieutenant colonel and commander".

SEC. 203. APPOINTMENT OF FORMER COMMISSIONED OFFICERS IN RESERVE COMPONENTS.

Chapter 34 is amended by inserting after section 596 the following new section:

"§ 596a. Commissioned officers: appointment of former commissioned officers

"Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

"(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

"(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.".

SEC. 204. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF OFFICERS IN RESERVE COMPONENTS WITH QUALIFYING EDUCATION OR EXPERIENCE.

Chapter 34 is further amended by inserting after section 596a (as added by section 203) the following new section:

"§ 596b. Commissioned officers: service credit upon original appointment

"(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. Except as provided in subparagraph (D), in determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

"(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being so appointed, designated, or assigned was admitted to a professional school. However, a person may not receive additional credit under this subparagraph if the amount of that person's baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

"(F) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

"(2) If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Naval Reserve, lieutenant.

"(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

"(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

"(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

"(1) initial grade as a reserve officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

SEC. 205. COMPUTATION OF YEARS OF SERVICE FOR TRANSFER OF ARMY OFFICERS TO RETIRED RESERVE.

(a) INTERIM REPEAL OF OBSOLETE PROVISION.—Effective for the period beginning on the date of the enactment of this Act and ending on the effective date specified in section 601, section 3853 is amended by striking out "the greater of—" and all that follows and inserting in lieu thereof "the sum of the following:

"(1) The officer's years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component.

"(2) The officer's years of service in a federally recognized commissioned status in the National Guard if his service in the National Guard was continuous from the date of his Federal recognition as an officer in the National Guard to the date of his appointment in the National Guard of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transfers to the Retired Reserve and to discharges on or after the date of the enactment of this Act.

SEC. 206. REPEAL OF MISCELLANEOUS OBSOLETE APPOINTMENT AUTHORITIES.

(a) ARMY RESERVE OFFICERS APPOINTED IN TEMPORARY GRADES.—Section 3352(a) is amended by striking out the second sentence.

(b) AIR FORCE AVIATION CADETS.—Section 8356 is repealed.

(c) REDUNDANT STATEMENT OF AUTHORITY.—Section 8379 is repealed.

PART B—SEPARATION AND RETIREMENT

SEC. 221. COMPUTATION OF HIGHEST GRADE IN WHICH SATISFACTORILY SERVED FOR RESERVE COMMISSIONED OFFICERS AND FORMER OFFICERS.

Section 1370 is amended by adding at the end the following new subsection:

"(d)(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher

grade, under some other provision of law, a person who is entitled to retired pay under chapter 1225 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

"(2)(A) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

"(B) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

"(3) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.".

PART C—OTHER AMENDMENTS

SEC. 241. TENURE IN OFFICE OF CHIEF OF NATIONAL GUARD BUREAU.

Section 3040(c) is amended by adding at the end the following new sentence: "While holding that office, the Chief of the National Guard Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.".

SEC. 242. RIGHT TO REENLIST IN REGULAR ARMY OR REGULAR AIR FORCE AFTER SERVICE AS AN OFFICER.

(a) ARMY.—Section 3258 is amended—

(1) by striking out "Any former enlisted member" and inserting in lieu thereof "(a) Subject to subsections (b) and (c), a former enlisted member";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(b) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person is discharged or released from active duty from service as an officer described in that subsection—

"(1) because that person's performance of duty while serving as such an officer has fallen below standards prescribed by the Secretary of Defense;

"(2) because of misconduct or moral or professional dereliction; or

"(3) because retention of that person as an officer is not clearly consistent with the interest of national security.

"(c) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person's status and grade as an enlisted member were only held during, and solely as a result of, participation in a precommissioning program after the effective date of the Reserve Officer Personnel Management Act.".

(b) AIR FORCE.—Section 8258 is amended—

(1) by striking out "Any former enlisted member" and inserting in lieu thereof "(a) Subject to subsections (b) and (c), a former enlisted member";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(b) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person is discharged or released from active duty from service as an officer described in that subsection—

"(1) because that person's performance of duty while serving as such an officer has fallen below standards prescribed by the Secretary of Defense;

"(2) because of misconduct or moral or professional dereliction; or

"(3) because retention of that person as an officer is not clearly consistent with the interest of national security.

"(c) A person who is a former enlisted member is not entitled to be reenlisted under subsection (a) if that person's status and grade as an enlisted member were only held during, and solely as a result of, participation in a precommissioning program after the effective date of the Reserve Officer Personnel Management Act.".

TITLE III—REORGANIZATION AND CONSOLIDATION OF LAWS RELATING TO RESERVE COMPONENTS

SEC. 301. LAWS RELATING TO ORGANIZATION AND ADMINISTRATION OF RESERVE COMPONENTS.

(a) RESERVE COMPONENTS GENERALLY.—(1) Subtitle E, as added by section 101, is amended by inserting after the table of chapters at the beginning of the subtitle the following:

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap.	Sec.
"1001. Definitions	10001
"1003. Reserve Components Generally	10101
"1005. Elements of Reserve Components	10141
"1007. Administration of Reserve Components	10201
"1009. Reserve Forces Policy Boards and Committees	10301
"1011. National Guard Bureau	10501
"1013. Budget Information and Annual Reports to Congress	10541

"CHAPTER 1001—DEFINITIONS

"Sec.
"10001. Definition of State.

"§ 10001. Definition of State

"In this subtitle, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"CHAPTER 1003—RESERVE COMPONENTS GENERALLY

"Sec.
"10101. Reserve components named.
"10102. Purpose of reserve components.
"10103. Basic policy for order of National Guard into Federal service.
"10104. Army Reserve: composition.
"10105. Army National Guard of the United States: composition.
"10106. Army National Guard: when a component of the Army.
"10107. Army National Guard of the United States: status when not in Federal service.
"10108. Naval Reserve: administration.
"10109. Marine Corps Reserve: administration.
"10110. Air Force Reserve: composition.
"10111. Air National Guard of the United States: composition.
"10112. Air National Guard: when a component of the Air Force.
"10113. Air National Guard of the United States: status when not in Federal service.
"10114. Coast Guard Reserve.

"§ 10101. Reserve components named

"The reserve components of the armed forces are:

"(1) The Army National Guard of the United States.

"(2) The Army Reserve.

"(3) The Naval Reserve.

"(4) The Marine Corps Reserve.

"(5) The Air National Guard of the United States.

"(6) The Air Force Reserve.

"(7) The Coast Guard Reserve.

"§ 10102. Purpose of reserve components

"The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

"§ 10103. Basic policy for order of the National Guard and reserve components to active duty

"Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

"§ 10104. Army Reserve: composition

"The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

"§ 10105. Army National Guard of the United States: composition

"The Army National Guard of the United States is the reserve component of the Army that consists of—

"(1) federally recognized units and organizations of the Army National Guard; and

"(2) members of the Army National Guard who are also Reserves of the Army.

"§ 10106. Army National Guard: when a component of the Army

"The Army National Guard while in the service of the United States is a component of the Army.

"§ 10107. Army National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

"§ 10108. Naval Reserve: administration

"(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

"(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

"§ 10109. Marine Corps Reserve: administration

"The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

"(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

"§ 10110. Air Force Reserve: composition

"The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

"§ 10111. Air National Guard of the United States: composition

"The Air National Guard of the United States is the reserve component of the Air Force that consists of—

"(1) federally recognized units and organizations of the Air National Guard; and

"(2) members of the Air National Guard who are also Reserves of the Air Force.

"§ 10112. Air National Guard: when a component of the Air Force

"The Air National Guard while in the service of the United States is a component of the Air Force.

"§ 10113. Air National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

"§ 10114. Coast Guard Reserve

"As provided in section 701 of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

"CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

"Sec.

"10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.

"10142. Ready Reserve generally.

"10143. Ready Reserve: Selected Reserve.

"10144. Ready Reserve: Individual Ready Reserve.

"10145. Ready Reserve: placement in.

"10146. Ready Reserve: transfer from.

"10147. Ready Reserve: training requirements.

"10148. Ready Reserve: failure to satisfactorily perform prescribed training.

"10149. Ready Reserve: continuous screening.

"10150. Ready Reserve: transfer back from Standby Reserve.

"10151. Standby Reserve: composition.

"10152. Standby Reserve: inactive status list.

"10153. Standby Reserve: status of members.

"10154. Retired Reserve.

"§ 10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

"(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

"(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

"(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

"§ 10142. Ready Reserve

"(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

"(b) The authorized strength of the Ready Reserve is 2,900,000.

"§ 10143. Ready Reserve: Selected Reserve

"(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

"(b) The organization and unit structure of the Selected Reserve shall be approved—

"(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

"(2) in the case of the Coast Guard Reserve, by the Secretary of Transportation upon the recommendation of the Commandant of the Coast Guard.

"§ 10144. Ready Reserve: Individual Ready Reserve

"Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

"§ 10145. Ready Reserve: placement in

"(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

"(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

"(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

"(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence.

"§ 10146. Ready Reserve: transfer from

"(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve.

"(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

"(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the Governor or other appropriate authority of the State.

"§ 10147. Ready Reserve: training requirements

"(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

"(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

"(2) serve on active duty for training not more than 30 days during each year.

"(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

"§ 10148. Ready Reserve: failure to satisfactorily perform prescribed training

"(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

"(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the

training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

"§ 10149. Ready Reserve: continuous screening

"(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

"(1) That there will be no significant attrition of those members or units during a mobilization.

"(2) That there is a proper balance of military skills.

"(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

"(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

"(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be—

"(1) transferred to the Standby Reserve;

"(2) discharged; or

"(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

"§ 10150. Ready Reserve: transfer back from Standby Reserve

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

"§ 10151. Standby Reserve: composition

"The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

"§ 10152. Standby Reserve: inactive status list

"(a) An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

"§ 10153. Standby Reserve: status of members

"While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

"§ 10154. Retired Reserve

"The Retired Reserve consists of the following Reserves:

"(1) Reserves who are or have been retired under section 3911, 6323, or 8911 of this title or under section 291 of title 14.

"(2) Reserves who have been transferred to the Retired Reserve upon their request, retain their status as Reserves, and are otherwise qualified.

"CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

"Sec.
"10201. Assistant Secretary of Defense for Reserve Affairs.
"10202. Regulations.
"10203. Reserve affairs: designation of general or flag officer of each armed force.
"10204. Personnel records.
"10205. Members of Individual Ready Reserve: requirement of notification of change of status.
"10206. Members: periodic physical examinations.
"10207. Mobilization forces: maintenance.
"10208. Annual mobilization exercise.
"10209. Regular and reserve components: discrimination prohibited.
"10210. Dissemination of information.
"10211. Policies and regulations: participation of reserve officers in preparation and administration.
"10212. Reserve components: dual membership prohibited.
"10213. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
"10214. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

"§ 10201. Assistant Secretary of Defense for Reserve Affairs

"As provided in section 136(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

"§ 10202. Regulations

"(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

"(b) The Secretary of Transportation, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy.

"(c) So far as practicable, regulations for all reserve components shall be uniform.

"§ 10203. Reserve affairs: designation of general or flag officer of each armed force

"(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

"(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the Commandant of the Marine Corps.

"(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

"(d) The Secretary of Transportation may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

"(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

"§ 10204. Personnel records

"(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

"(1) Physical condition.

"(2) Dependency status.

"(3) Military qualifications.

"(4) Civilian occupational skills.

"(5) Availability for service.

"(6) Such other information as the Secretary concerned may prescribe.

"(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay.

"§ 10205. Members of Ready Reserve: requirement of notification of change of status

"(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or mental standards prescribed for the member's armed force.

"(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"§ 10206. Members: periodic physical examinations

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every four years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually to the Secretary concerned a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

"§ 10207. Mobilization forces: maintenance

"(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of

partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

"(b) In this section, the term 'partial mobilization' means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

"§ 10208. Annual mobilization exercise

"(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

"(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

"§ 10209. Regular and reserve components: discrimination prohibited

"Laws applying to both Regulars and Reserves shall be administered without discrimination—

"(1) among Regulars;

"(2) among Reserves; and

"(3) between Regulars and Reserves.

"§ 10210. Dissemination of information

"The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

"§ 10211. Policies and regulations: participation of reserve officers in preparation and administration

"Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

"§ 10212. Reserve components: dual membership prohibited

"Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

"§ 10213. Adjutants general and assistant adjutants general: reference to other officers of National Guard

"In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12215, 12642(c), 14507(b), 14508(e), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

"§ 10214. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

"(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

"(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

"(2) Officers of the Air National Guard of the United States who are not on active duty—

"(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

"(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

"(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

"(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

"(c) This section shall be carried out under regulations prescribed by the Secretary of the Army, with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.".

(2)(A) Sections 261 through 265 and 267 through 281 are repealed.

(B) Chapter 11 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"261. Reference to chapters 1003, 1005, and 1007.

"§ 261. Reference to chapters 1003, 1005, and 1007

"Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.".

(3)(A) Chapter 519 and sections 652, 2001, 3076 through 3080, and 8076 through 8080 are repealed.

(B) Section 552(e) of Public Law 98-525 is repealed.

(4) Section 1004 is amended—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" before "Except as otherwise provided".

(5)(A) Section 10147(a), as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955.

(B) Section 10148(b), as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961.

(b) BOARDS AND COMMITTEES.—(1) Part I of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

"Sec.
"10301. Reserve Forces Policy Board.
"10302. Army Reserve Forces Policy Committee.
"10303. Naval Reserve Policy Board.
"10304. Marine Corps Reserve Policy Board.
"10305. Air Force Reserve Forces Policy Committee.

"§ 10301. Reserve Forces Policy Board

"(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The Board consists of the following:

"(1) A civilian chairman appointed by the Secretary of Defense.

"(2) The Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

"(3) An officer of the Regular Army designated by the Secretary of the Army.

"(4) An officer of the Regular Navy or Regular Marine Corps designated by the Secretary of the Navy.

"(5) An officer of the Regular Air Force designated by the Secretary of the Air Force.

"(6) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve.

"(7) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy, two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve.

"(8) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve.

"(9) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.

"(c) The Board, acting through the Assistant Secretary of Defense for Reserve Affairs, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

"(d) This section does not affect the committees on reserve policies prescribed within the military departments by sections 10302 through 10305 of this title.

"(e) A member of a committee or board prescribed under a section listed in subsection (d) may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

"(f) The Board shall act on those matters referred to it by the Chairman and, in addition, on any matter raised by a member of the Board.

"§ 10303. Naval Reserve Policy Board

"A Naval Reserve Policy Board shall be convened at least once annually at the seat

of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

"§ 10304. Marine Corps Reserve Policy Board

"A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.".

(2)(A) Section 3021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10301, and redesignated as section 10302.

(B) Section 8021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10304, and redesignated as section 10305.

(3) The text of section 175 is amended to read as follows:

"There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.".

(4)(A) Chapter 303 (as amended by paragraph (2)(A)) is amended by adding at the end the following:

"§ 3021. Army Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.".

(B) Chapter 803 (as amended by paragraph (2)(B)) is amended by adding at the end the following:

"§ 8021. Air Force Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.".

(c) NATIONAL GUARD BUREAU.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1009, as added by subsection (b), the following:

"CHAPTER 1011—NATIONAL GUARD BUREAU

"Sec.
"10501. National Guard Bureau: organization; function.
"10502. Chief of Bureau: appointment.
"10503. Chief of Bureau: term of office; grade; filling vacancy.
"10504. National Guard Bureau: assignment of officers of regular or reserve components.

"§ 10501. National Guard Bureau: organization; function

"There is a National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force. The National Guard Bureau is the channel of communication between the departments concerned and the several States, Territories, Puerto Rico, and the District of Columbia on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

"§ 10502. Chief of Bureau: appointment

"(a) CHIEF.—The National Guard Bureau is headed by a chief who is the adviser to the Army Chief of Staff and the Air Force Chief of Staff on National Guard matters.

"(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Chief of the Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(1) have been recommended by their respective governors;

"(2) have had at least 10 years of commissioned service in the active National Guard; and

"(3) are in a grade above lieutenant colonel.

"§ 10503. Chief of Bureau: term of office; grade; filling vacancy

"(a) TERM OF OFFICE.—The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time. An officer may not hold the office of Chief of the Bureau after attaining 64 years of age. He is eligible to succeed himself. While holding that office, the Chief of the Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

"(b) GRADE WHILE SERVING.—If an officer appointed as Chief of the National Guard Bureau holds a lower reserve grade, the officer shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, while serving as Chief of the Bureau.

"(c) DISABILITY; VACANCY.—If the Chief of the Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.

"§ 10504. National Guard Bureau: assignment of officers of regular or reserve components

"Except as provided in section 12402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army and the Air Force as he considers necessary.".

(2) Sections 3040, 3541, and 8541 are repealed.

(d) ANNUAL REPORT ON GUARD AND RESERVE EQUIPMENT.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1011, as added by subsection (c), the following:

"CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

"Sec.
"10541. National Guard and reserve component equipment: annual report to Congress.".

(2) Section 115b is transferred to chapter 1013, as added by paragraph (1), inserted after the table of sections, and redesignated as section 10541.

(3) The heading of that section is amended to read as follows:

"§ 10541. National Guard and reserve component equipment: annual report to Congress".

SEC. 302. LAWS RELATING TO RESERVE COMPONENT PERSONNEL POLICY.

(a) STRENGTH AND DISTRIBUTION IN GRADE.—(1) Subtitle E, as added by section 101, is amended by inserting after part I of such subtitle, as added by section 301, the following:

"PART II—PERSONNEL GENERALLY

"Chap.	Sec.
"1201. Authorized Strengths and Distribution in Grade	12001
"1203. Enlisted Members	12101
"1205. Appointment of Reserve Officers	12201
"1207. Warrant Officers	12241
"1209. Active Duty	12301
"1211. National Guard Members in Federal Service	12401
"1213. Special Appointments, Assignments, Details, and Duties	12501
"1215. Miscellaneous Prohibitions and Penalties	[No present secs.]
"1217. Miscellaneous Rights and Benefits	12601
"1219. Standards and Procedures for Retention and Promotion	12641
"1221. Separation	12681
"1223. Retired Pay for Non-Regular Service	12731
"1225. Retired Grade	12771

"CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

"Sec.
"12001. Authorized strengths: reserve components.
"12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.
"12003. Authorized strengths: commissioned officers in an active status.
"12004. Strength in grade: reserve general and flag officers in an active status.
"12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.
"12006. Strength limitations: authority to waive in time of war or national emergency.
"12007. Reserve officers of the Army: distribution.
"12008. Army Reserve and Air Force Reserve: warrant officers.
"12009. Army and Air Force reserve components: temporary increases.
"12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.
"12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.
"12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"§ 12001. Authorized strengths: reserve components

"(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

"(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these de-

terminations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

"§ 12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

"(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

"Army National Guard and the Army National Guard of the United States	600,000
"Army Reserve	980,000
"Air National Guard and the Air National Guard of the United States	150,000
"Air Force Reserve	500,000

"(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

"§ 12003. Authorized strengths: commissioned officers in an active status

"(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as follows:

"Army	275,000
"Air Force	200,000
"Navy	150,000
"Marine Corps	24,500

"(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

"(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

"(2) the excess results directly from the operation of a nondiscretionary provision of law.

"§ 12004. Strength in grade: reserve general and flag officers in an active status

"(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active-status, are as follows:

"Army	207
"Air Force	157
"Navy	48
"Marine Corps	10

"(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

"(1) Those serving as adjutants general or assistant adjutants general of a State.

"(2) Those serving in the National Guard Bureau.

"(3) Those counted under section 526 of this title.

"(c)(1) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 39 are distributed among the line and the staff corps as follows:

"Line	28
"Medical Corps	5
"Chaplain Corps	1
"Judge Advocate General's Corps	1
"Dental Corps	2
"Nurse Corps	1
"Medical Service Corps	1

"(2) The remaining authorizations for the Navy under subsection (a) shall be distributed among such other staff corps as are established by the Secretary of the Navy under the authority provided by section 5150(b) of this title, except that—

"(A) if the Secretary has established a Supply Corps, the authorized strength for the Supply Corps shall be seven; and

"(B) if the Secretary has established a Civil Engineering Corps, the authorized strength for the Civil Engineering Corps shall be two.

"(3) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

"(d) The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title.

"(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a).

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§ 12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

"(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

"(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

Grade	Army percentage	Air Force percentage
Colonel	2	1.8
Lieutenant colonel	6	4.6
Major	13	14.0
Captain	35	32.0
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	44	47.6

"(b)(1) The authorized strengths of the Naval Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

"Captain	1.5 percent
"Commander	7 percent
"Lieutenant commander	22 percent
"Lieutenant	37 percent
"Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title)	32.5 percent

"(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

"Colonel	2 percent
"Lieutenant colonel	6 percent
"Major	12 percent
"Captain	35 percent
"First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	32.5 percent

"(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§ 12006. Strength limitations: authority to waive in time of war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

"§ 12007. Reserve officers of the Army: distribution

"The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to re-

serve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

"(1) each special branch; and

"(2) all other branches taken together.

"§ 12008. Army Reserve and Air Force Reserve: warrant officers

"The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

"§ 12009. Army and Air Force reserve components: temporary increases

"(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 14304(b), 14314, or 14317 of this title.

"(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

"§ 12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result

"When there is a fraction in the final result of any computation under this chapter for the Naval Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

"§ 12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard

"(a) The number of enlisted members in pay grades E-8 and E-9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	569	202	279	14
E-8	2,585	429	800	74

"(b) Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.".

(2)(A) Section 524 is transferred to chapter 1201, as added by paragraph (1), inserted after section 12010, and redesignated as section 12011.

(B) The heading of that section is amended to read as follows:

"§ 12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard".

(3) Chapter 531 and sections 3212, 3217 through 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through 8225 are repealed.

(4) Section 517 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b) and in that subsection striking out "or whenever" and all that follows through "under subsection (b).".

(b) ENLISTMENTS.—(1) Part II of subtitle E, as added by subsection (a), is amended by adding after chapter 1201 (as added by subsection (a)), the following:

"CHAPTER 1203—ENLISTED MEMBERS

"Sec.

"12101. Definition.

"12102. Reserve components: qualifications.

"12103. Reserve components: terms.

"12104. Reserve components: transfers.

"12105. Army Reserve and Air Force Reserve: transfer from Guard components.

"12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.

"12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.

"§ 12101. Definition

"In this chapter, the term 'enlistment' means original enlistment or reenlistment.

"§ 12105. Army Reserve and Air Force Reserve: transfer from Guard components

"(a) Under such regulations as the Secretary concerned may prescribe—

"(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

"(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

"(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

"(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

"§ 12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

"(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

"(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

"(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

"§ 12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

"(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

"(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

"(2) subscribe to the oath set forth in section 304 of title 32; and

"(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

"(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

"(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

"(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

"(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.".

(2) Sections 510 (as amended by section 201(a)), 511, and 512 are transferred to chapter 1203, as added by paragraph (1), inserted after section 12101, and redesignated as follows:

Section	Redesignated section
510	12102
511	12103
512	12104

(3) The following sections are repealed: sections 3259, 3260, 3261, 8259, 8260, and 8261.

(c) APPOINTMENT OF OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1203 (as added by subsection (b)) the following:

"CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

"Sec.

"12201. Qualifications for appointment.

"12202. Commissioned officer grades.

"12203. Commissioned officers: appointment, how made; term.

"12204. Commissioned officers: original appointment; limitation.

"12205. Commissioned officers: appointment; educational requirement.

"12206. Commissioned officers: appointment of former commissioned officers.

"12207. Commissioned officers: service credit upon original appointment.
"12208. Officers: appointment upon transfer.
"12209. Officer candidates: enlisted Reserves.
"12210. Attending Physician to the Congress: reserve grade while so serving.
"12211. Officers: Army National Guard of United States.
"12212. Officers: Air National Guard of United States.
"12213. Officers; Army Reserve: transfer from Army National Guard of United States.
"12214. Officers; Air Force Reserve: transfer from Air National Guard of United States.
"12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

"§ 12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

"(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

"(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.".

(2) Sections 591 (as amended by section 201(b)), 592, 593 (as amended by section 202), 594, 596, 596a (as added by section 203), 596b (as added by section 204), and 595 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
591	12201
592	12202
593	12203
594	12204
596	12205
596a (as added by section 203)	12206
596b (as added by section 204)	12207
595	12208

(3) Sections 600, 600a, 3351, 8351, 3352 (as amended by section 206(a)), and 8352 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after section 12208, and redesignated as follows:

Section	Redesignated section
600	12209
600a	12210
3351	12211
8351	12212
3352	12213
8352	12214

(d) WARRANT OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1205 (as added by subsection (c)) the following:

"CHAPTER 1207—WARRANT OFFICERS

"Sec.
"12241. Warrant officers: grades; appointment, how made; term.
"12242. Warrant officers: promotion.
"12243. Warrant officers: suspension of laws for promotions or mandatory retirement or separation during war or emergency.".

(2) Sections 597, 598, and 599 are transferred to chapter 1207, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
597	12241
598	12242
599	12243

(3) Chapter 34 is amended to read as follows:

"CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

"Sec.
"591. Reference to chapters 1205 and 1207.

"§ 591. Reference to chapters 1205 and 1207

"Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).".

(e) ACTIVE DUTY.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1207 (as added by subsection (d)) the following:

"CHAPTER 1209—ACTIVE DUTY

"Sec.
"12301. Reserve components generally.
"12302. Ready Reserve.
"12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
"12304. Selected Reserve: order to active duty other than during war or national emergency.
"12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation.
"12306. Standby Reserve.
"12307. Retired Reserve.
"12308. Retention on active duty after becoming qualified for retired pay.
"12309. Reserve officers: use of in expansion of armed forces.
"12310. Reserves: for organizing, administering, etc., reserve components.
"12311. Active duty agreements.
"12312. Active duty agreements: release from duty.
"12313. Reserves: release from active duty.
"12314. Reserves: kinds of duty.
"12315. Reserves: duty with or without pay.
"12316. Payment of certain Reserves while on duty.
"12317. Reserves: theological students; limitations.
"12318. Reserves on active duty: duties; funding.
"12319. Ready Reserve: muster duty.
"12320. Reserve officers: grade in which ordered to active duty.
"12321. Limitation on duty with Reserve Officer Training Corps units.".

(2) Sections 672 through 687, section 689 (as amended by section 114), and section 690 are transferred to chapter 1209, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
672	12301
673	12302
673a	12303
673b	12304
673c	12305
674	12306
675	12307
676	12308
677	12309
678	12310
679	12311
680	12312
681	12313
682	12314
683	12315
684	12316
685	12317
686	12318
687	12319
689	12320
690	12321

(3) Chapter 39 is amended by inserting after section 671b the following:

"§ 672. Reference to chapter 1209

"Provisions of law relating to service of members of reserve components on active duty are set forth in chapter 1209 of this title (beginning with section 12301).".

(f) NATIONAL GUARD MEMBERS IN FEDERAL SERVICE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1209 (as added by subsection (e)) the following:

"CHAPTER 1211—NATIONAL GUARD MEMBERS IN FEDERAL SERVICE

"Sec.
"12401. Army and Air National Guard of United States: status.
"12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau.
"12403. Army and Air National Guard of United States: members; status in which ordered into Federal service.
"12404. Army and Air National Guard of United States: mobilization; maintenance of organization.
"12405. National Guard in Federal service: status.
"12406. National Guard in Federal service: call.
"12407. National Guard in Federal service: period of service; apportionment.
"12408. National Guard in Federal service: physical examination.

"§ 12401. Army and Air National Guard of the United States: status

"Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

"§ 12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau

"(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

"(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

"(2) The number of officers of the Air National Guard of the United States in grades

below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

"§ 12403. Army and Air National Guard of United States: members; status in which ordered into Federal service

"Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

"§ 12404. Army and Air National Guard of United States: mobilization; maintenance of organization

"During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

"§ 12405. National Guard in Federal service: status

"Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

"§ 12406. National Guard in Federal service: call

"Whenever—

"(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

"(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

"(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

"§ 12407. National Guard in Federal service: period of service; apportionment

"(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

"(b) When the National Guard of a State is called into Federal service with the National Guard of another of those jurisdictions, the President may apportion the total number called from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the jurisdictions affected by the call.

"§ 12408. National Guard in Federal service: physical examination

"(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

"(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.".

(2) Sections 3495 through 3502 and 8495 through 8502 are repealed.

(g) MISCELLANEOUS PROVISIONS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1211 (as added by subsection (f)) the following:

"CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

"Sec.

"12501. Reserve components: detail of members of regular and reserve components to assist.

"12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

"§ 12501. Reserve components: detail of members of regular and reserve components to assist

"The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

"§ 12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

"(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

"(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

"CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

"[No present sections]

"CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

"Sec.

"12601. Compensation: Reserve on active duty accepting from any person.

"12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard.

"§ 12601. Compensation: Reserve on active duty accepting from any person

"Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

"§ 12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

"(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

"(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

"(3) inactive-duty training performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.".

(2) Sections 715, 1033, 3542, 3686, 8542, and 8686 are repealed.

(h) STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1217 (as added by subsection (g)) the following:

"CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

"Sec.

"12641. Standards and procedures: Secretary to prescribe.

"12642. Standards and qualifications: result of failure to comply with.

"12643. Boards for appointment, promotion, and certain other purposes: composition.

"12644. Members physically not qualified for active duty: discharge or transfer to retired status.

"12645. Commissioned officers: retention until completion of required service.

"12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.

"12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.".

(2) Sections 1001, 1002, 266, 1004 (as amended by section 301(b)(4)), and 1005 through 1007

are transferred (in that order) to chapter 1219, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section:	Redesignated section
1001	12641
1002	12642
266	12643
1004	12644
1005	12645
1006	12646
1007	12647

(3) Section 1003 is repealed.

(4)(A) The heading of section 12641 (as so redesignated) is amended to read as follows:

"§ 12641. Standards and procedures: Secretary to prescribe".

(B) The heading of section 12644 (as so redesignated) is amended to read as follows:

"§ 12644. Members physically not qualified for active duty: discharge or transfer to retired status".

(5) Chapter 51 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"1001. Reference to chapter 1219.

"§ 1001. Reference to chapter 1219

"Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).".

(i) SEPARATION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1219 (as added by subsection (h)) the following:

"CHAPTER 1221—SEPARATION

"Sec.
"12681. Reserves: discharge authority.
"12682. Reserves: discharge upon becoming ordained minister of religion.
"12683. Reserve officers: limitation on involuntary separation.
"12684. Reserves: separation for absence without authority or sentence to imprisonment.
"12685. Reserves separated for cause: character of discharge.
"12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.

"§ 12681. Reserves: discharge authority

"Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

"§ 12682. Reserves: discharge upon becoming ordained minister of religion

"Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

"§ 12683. Reserve officers: limitation on involuntary separation

"(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

"(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) by the approved sentence of a court-martial.

"(b) Subsection (a) does not apply—

"(1) to a separation under section 12684, 14901, or 14907 of this title;

"(2) to a dismissal under section 1161(a) of this title; or

"(3) to a transfer under section 12213, 12214, 14514, or 14515 of this title.

"§ 12684. Reserves: separation for absence without authority or sentence to imprisonment

"The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

"(1) who has been absent without authority for at least three months; or

"(2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

"§ 12685. Reserves separated for cause: character of discharge

"A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

"(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

"§ 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

"Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.".

(2) Sections 1162 and 1163 are repealed.

(j) RETIRED PAY.—(1) Chapter 67 is transferred to part II of subtitle E, as added by subsection (a), inserted after chapter 1221 (as added by subsection (i)), and amended to read as follows:

"CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

"Sec.
"12731. Age and service requirements.
"12731a. Temporary special retirement qualification authority.
"12732. Entitlement to retired pay: computation of years of service.
"12733. Computation of retired pay: computation of years of service.
"12734. Time not creditable toward years of service.
"12735. Inactive status list.
"12736. Service credited for retired pay benefits not excluded for other benefits.
"12737. Limitation on active duty.
"12738. Limitations on revocation of retired pay.
"12739. Computation of retired pay.

"§ 12731. Age and service requirements

"(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(1) is at least 60 years of age;

"(2) has performed at least 20 years of service computed under section 12732 of this title;

"(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

"(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

"(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

"(A) the person performed active duty during World War I or World War II; or

"(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

"(2) In this subsection:

"(A) The term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918.

"(B) The term 'World War II' means the period beginning on September 9, 1940, and ending on December 31, 1946.

"(C) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on July 27, 1953.

"(D) The term 'Berlin crisis' means the period beginning on August 14, 1961, and ending on May 30, 1963.

"(E) The term 'Vietnam era' means the period beginning on August 5, 1964, and ending on March 27, 1973.

"(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

"(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

"§ 12731a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2713).

"(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.

"§ 12732. Entitlement to retired pay: computation of years of service

"(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

"(1) The person's years of service, before July 1, 1949, in the following:

"(A) The armed forces.

"(B) The federally recognized National Guard before June 15, 1933.

"(C) A federally recognized status in the National Guard before June 15, 1933.

"(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

"(E) The Naval Reserve Force.

"(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

"(G) The National Naval Volunteers.

"(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

"(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

"(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

"(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

"(ii) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

"(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

"(A) One point for each day of—

"(i) active service; or

"(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

"(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

"(C) Points at the rate of 15 a year for membership—

"(i) in a reserve component of an armed force,

"(ii) in the Army or the Air Force without component, or

"(iii) in any other category covered by subsection (a)(1) except a regular component.

For the purpose of clauses (A), (B), and (C), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

"(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

"(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

"(b) The following service may not be counted under subsection (a):

"(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

"(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

"(3) Service in the inactive National Guard.

"(4) Service in a non-federally recognized status in the National Guard.

"(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

"(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

"(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

"§ 12733. Computation of retired pay: computation of years of service

"For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

"(1) The person's days of active service.

"(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

"(3) One day for each point credited to the person under clause (B) or (C) of section 12732(a)(2) of this title, but not more than 60 days in any one year.

"(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

"§ 12734. Time not creditable toward years of service

"(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

"(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

"§ 12735. Inactive status list

"(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

"(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

"(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

"§ 12736. Service credited for retired pay benefits not excluded for other benefits

"No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

"§ 12737. Limitation on active duty

"A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

"§ 12738. Limitations on revocation of retired pay

"(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for re-

tired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

"(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

"§ 12739. Computation of retired pay

"(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

"(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

"(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

"(b) The amount computed under subsection (a) may not exceed 75 percent of the retired pay base upon which the computation is based.

"(c) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) Section 1401(a) is amended by striking out formula number 3 in the table set forth in that section.

(3) Section 1405(a)(3) is amended by striking out "section 1333" and "section 1331" and inserting in lieu thereof "section 12733" and "section 12731", respectively.

(4) Section 1406(b) is amended—

(A) by striking out the matter preceding the table and inserting in lieu thereof the following:

"(b) RETIREMENT UNDER SUBTITLE A OR E.—

"(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.";

(B) in the table—

(i) by striking out the entry relating to section 1331 (including the matter relating to that entry in the column under the heading "The retired pay base is:"); and

(ii) by redesignating the references to footnotes 3 and 4 so as to refer to footnotes 2 and 3, respectively;

(C) by striking out footnote 2 to the table and redesignating footnotes 3 and 4 as footnotes 2 and 3, respectively; and

(D) by adding at the end the following:

"(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted, of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370(d) of this title.".

(5) Section 1407 is amended—

(A) in subsection (c)(2)(B), by striking out "chapter 67" and inserting in lieu thereof "chapter 1223"; and

(B) in subsection (f)(2)—

(i) by striking out "CHAPTER 67" in the heading and inserting in lieu thereof "CHAPTER 1223"; and

(ii) by striking out "section 1331" and inserting in lieu thereof "section 12731".

(6) Section 1409(a)(1)(B) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(7) Part II of subtitle A is amended by inserting after chapter 65 the following:

"CHAPTER 67—RETIRED PAY FOR NONREGULAR SERVICE

"Sec.
"1331. Reference to chapter 1223.

"§ 1331. Reference to chapter 1223

"Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).".

(8) Section 6034 is repealed.

(k) RETIRED GRADE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1223 (as added by subsection (j)) the following:

"CHAPTER 1225—RETIRED GRADE

"Sec.
"12771. Reserve officers: grade on transfer to Retired Reserve.
"12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
"12773. Limitation on accrual of increased pay or benefits.
"12774. Retired lists.

"§ 12771. Reserve officers: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370(d), in the armed force in which he is serving on the date of transfer.

"§ 12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

"§ 12773. Limitation on accrual of increased pay or benefits

"Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

"§ 12774. Retired lists

"(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

"(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.".

(2) Sections 1374 and 6017 are repealed.

(3)(A) Section 1376 is amended—

(i) by striking out subsection (a); and

(ii) by striking out "(b)" before "The Secretary concerned".

(B) The heading of that section is amended to read as follows:

"§ 1376. Temporary disability retired lists".

SEC. 303. LAWS RELATING TO RESERVE COMPONENT TRAINING AND EDUCATIONAL ASSISTANCE PROGRAMS.

(a) TRAINING GENERALLY.—Subtitle E, as added by section 101, is amended by adding after part III of such subtitle (as added by that section) the following:

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"Chap.	Sec.
"1601. Training Generally	[No present sections]
"1606. Educational Assistance for Members of the Selected Reserve	16131
"1608. Health Professions Stipend Program	16201
"1609. Education Loan Repayments	16301

"CHAPTER 1601—TRAINING GENERALLY

"[No present sections]".

(b) MONTGOMERY GI BILL FOR SELECTED RESERVE.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"16131. Educational assistance program: establishment; amount.
"16132. Eligibility for educational assistance.
"16133. Time limitations for use of entitlement.
"16134. Termination of assistance.
"16135. Failure to participate satisfactorily; penalties.
"16136. Administration of program.
"16137. Reports to Congress.".

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section:	Redesignated section
2131	16131
2132	16132
2133	16133
2134	16134
2135	16135
2136	16136
2137	16137

(3) Section 16131 (as so redesignated) is amended—

(A) in subsection (c)(3)(B)(i), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304"; and

(B) in subsection (g)(1), by striking out "section 2136(c)" and inserting in lieu thereof "section 16136(c)".

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out "section 2131" and inserting in lieu thereof "section 16131"; and

(B) in subsection (c), by striking out "sections 2134 and 2135" and inserting in lieu thereof "section 16134 and 16135".

(5) Section 16133 (as so redesignated) is amended—

(A) in subsection (b)(1)(B), by striking out "section 268(b)" and inserting in lieu thereof "section 10143(a)"; and

(B) in subsection (b)(4)(A), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304".

(6) Section 16135 (as so redesignated) is amended—

(A) by striking out "section 2132" in subsection (a)(1)(A) and inserting in lieu thereof "section 16132"; and

(B) by striking out "section 2132(a)" in subsection (b)(1)(A) and inserting in lieu thereof "section 16132(a)".

(7) Chapter 106 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"2131. Reference to chapter 1606.
"2138. Savings provision.

"§ 2131. Reference to chapter 1606

"Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).".

(c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1606 (as added by subsection (b)) the following:

"CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

"Sec.
"16201. Financial assistance: health-care professionals in reserve components.
"16202. Reserve service: required active duty for training.
"16203. Penalties and limitations.
"16204. Regulations.

"§ 16204. Regulations

"This chapter shall be administered under regulations prescribed by the Secretary of Defense.".

(2) Section 2128 is transferred to chapter 1608, as added by paragraph (1), inserted after the table of sections, redesignated as section 16201, and amended by striking out subsection (f).

(3) Section 2129 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16201 (as transferred and redesignated by paragraph (2)), and redesignated as section 16202.

(4)(A) Section 2130 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16202 (as transferred and redesignated by paragraph (3)), redesignated as section 16203, and amended by striking out subsection (c).

(B) The heading of that section is amended to read as follows:

"§ 16203. Penalties and limitations".

(5) Section 16201, as so redesignated, is amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(6) Section 16202, as so redesignated, is amended by striking out "section 2128" both places it appears and inserting in lieu thereof "section 16201".

(7) Chapter 105 is amended—

(A) in the table of subchapters before subchapter I—

(i) by striking out the item relating to subchapter II; and

(ii) by redesignating the item relating to subchapter III so as to refer to subchapter II;

(B) by striking out the heading for subchapter II and the table of sections following that heading; and

(C) by redesignating subchapter III as subchapter II.

(d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1608 (as added by subsection (c) the following:

"CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

"Sec.
"16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.
"16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

"§ 16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); or

"(B) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.".

(2)(A) Section 2172 is transferred to the end of chapter 1609, as added by paragraph (1), and redesignated as section 16302.

(B) The heading of such section is amended to read as follows:

"§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages".

(e) CONFORMING AMENDMENTS.—Section 2171 is amended as follows:

(1) Subsection (a)(1)(B) is amended by striking out "or" after "(B)".

(2) Subsection (a)(2) is amended—

(A) in the first sentence, by striking out "person for—" and all that follows through "(B) service performed" and inserting in lieu thereof "person for service performed"; and

(B) by striking out the second sentence.

(3) Subsection (b) is amended to read as follows:

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.".

(4) Subsection (e) is amended by striking out "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection" and inserting in lieu thereof "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)".

(5) Subsection (f) is amended—

(A) by inserting "and section 16301 of this title" after "this section"; and

(B) by inserting "and section 16301(a) of this title" after "subsection (a)".

(6) The heading of such section is amended to read as follows:

"§ 2171. Education loan repayment program: enlisted members on active duty in specified military specialties".

SEC. 304. LAWS RELATING TO RESERVE COMPONENT PROCUREMENT AND EQUIPMENT.

(a) ADDITION OF NEW PART.—(1) Subtitle E, as added by section 101, is amended by adding after part IV of such subtitle (as added by section 303) the following:

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"Chap.	Sec.
"1801. Issue of Serviceable Material to Reserve Components	[No present sections]
"1803. Facilities for Reserve Components	18231
"1805. Miscellaneous Provisions	18501

"CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

"[No present sections]".

(b) FACILITIES FOR RESERVE COMPONENTS.—(1) Chapter 133 is transferred to the end of part V of subtitle E, as added by subsection (a), and redesignated as chapter 1803.

(2) The sections of that chapter are redesignated as follows:

Section:	Redesignated section
2231	18231
2232	18232
2233	18233
2233a	18233a
2234	18234
2235	18235
2236	18236
2237	18237
2238	18238
2239	18239

(3) The items in the table of sections at the beginning of such chapter are revised to reflect the redesignations made by paragraph (2).

(4) Section 18233 (as redesignated by paragraph (2)) is amended by striking out "sections 2233a, 2234, 2235, 2236, and 2238" in subsection (a) and inserting in lieu thereof "sections 18233a, 18234, 18235, 18236, and 18238".

(5) Section 18233a (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233" and inserting in lieu thereof "section 18233"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

(6) Section 18234 (as redesignated by paragraph (2)) is amended by striking out "section 2233" and inserting in lieu thereof "section 18233".

(7) Section 18235 (as redesignated by paragraph (2)) is amended by striking out "section 2233(a)(1)" in subsection (a)(1) and inserting in lieu thereof "section 18233".

(8) Section 18236 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a)—

(i) by striking out "section 2233" in the first sentence and inserting in lieu thereof "section 18233"; and

(ii) by striking out "section 2233(a)(3) or (4)" in the second sentence and inserting in lieu thereof "paragraph (3) or (4) of section 18233(a)";

(B) in subsection (b)—

(i) by striking out "clause (4) or (5) of section 2233(a)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraph (4) or (5) of section 18233(a)"; and

(ii) by striking out "section 2233(e)" in paragraph (2) and inserting in lieu thereof "section 18233(e)"; and

(C) in subsection (c), by striking out "section 2233" and inserting in lieu thereof "section 18233".

(9) Section 18237 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233(a)(2), (3) and (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)"; and

(B) in subsection (b), by striking out "section 2233(a)(2), (3) or (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)".

(10) Section 18239 (as redesignated by paragraph (2)) is amended by striking out "section 2233" both places it appears and inserting in lieu thereof "section 18233".

(11) Part IV of subtitle A is amended by inserting after chapter 131 the following:

"CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

"Sec.

"2231. Reference to chapter 1803.

"§ 2231. Reference to chapter 1803

"Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).".

(c) MISCELLANEOUS PROVISIONS.—(1) Part V of subtitle E, as added by subsection (a), is amended by adding after chapter 1803, as transferred by subsection (b), the following:

"CHAPTER 1805—MISCELLANEOUS PROVISIONS

"Sec.

"18501. Reserve components: personnel and logistic support by military departments.

"18502. Reserve components: supplies, services, and facilities.

"§ 18501. Reserve components: personnel and logistic support by military departments

"The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Transportation when the Coast Guard is not operated as a service of the Navy.

"§ 18502. Reserve components: supplies, services, and facilities

"(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

"(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.".

(2) Section 2540 is repealed.

SEC. 305. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 301 through 304 (including a reference in a regulation, order, or other law) shall be treated as referring to that provision as transferred or to the corresponding provision as so enacted by this title.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 401. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

"E. Reserve Components ..... 10001".

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to section 123 and inserting in lieu thereof the following:

"123. Authority to suspend officer personnel laws during war or national emergency.".

(3) The table of sections at the beginning of chapter 31 is amended by striking out the items relating to sections 510, 511, 512, and 517.

(4) The table of sections at the beginning of chapter 32 is amended—

(A) by striking out the item relating to section 524; and

(B) by striking out "524," in the item relating to section 527.

(5) The table of sections at the beginning of subchapter V of chapter 36 is amended by striking out the item relating to section 644.

(6) The table of sections at the beginning of chapter 37 is amended by striking out the item relating to section 652.

(7) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 672 and inserting in lieu thereof the following:

"672. Reference to chapter 1209.";

and

(B) by striking out the items relating to section 673 through 686 and section 689.

(8) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 715.

(9) The table of sections at the beginning of chapter 53 is amended by striking out the item relating to section 1033.

(10) The table of sections at the beginning of chapter 59 is amended by striking out the items relating to sections 1162 and 1163.

(11) The table of sections at the beginning of chapter 69 is amended—

(A) by striking out the item relating to section 1374; and

(B) by striking out the item relating to section 1376 and inserting in lieu thereof the following:

"1376. Temporary disability retired lists.".

(12) The table of sections at the beginning of chapter 101 is amended by striking out the item relating to section 2001.

(13) The table of sections at the beginning of chapter 109 is amended by striking out the items relating to sections 2171 and 2172 and inserting in lieu thereof the following:

"2171. Education loan repayment program: enlisted members on active duty in specified military specialties.".

(14) The table of sections at the beginning of subchapter I of chapter 152 is amended by striking out the item relating to section 2540.

(c) CROSS-REFERENCE AMENDMENTS—

(1) Section 101(a)(13) is amended by striking out "672(a), 673, 673b, 673c, 688, 3500, or 8500" and inserting in lieu thereof "688, 12301(a), 12302, 12304, 12305, or 12406".

(2) Section 113(c)(3) is amended by striking out "chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers" and inserting in lieu thereof "chapters 1219 and 1401 through 1411 of this title ".

(3) Section 523(b)(1) is amended—

(A) in subparagraph (B), by striking out "section 265" and all that follows through "of this title" and inserting in lieu thereof "section 10211, 10302 through 10305, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(4) Section 527 is amended by striking out "524," in the text and in the heading.

(5) Section 641(1) is amended—

(A) in subparagraph (B), by striking out "section 175" and all that follows through "of this title" and inserting in lieu thereof

"section 3038, 8038, 10211, 10301 through 10305, 10501, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(6) Sections 1201, 1202, and 1203 are each amended by striking out "section 270(b)" and inserting in lieu thereof "section 10148(a)".

(7)(A) Section 1076(b)(2)(A) is amended by striking out "under chapter 67 of this title" and inserting in lieu thereof "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)":

(B) Section 1370(a)(1) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(8) Section 1482(f)(2) is amended by striking out "section 1332" and "section 1331" and inserting in lieu thereof "section 12732" and "12731", respectively.

(d) SURVIVOR BENEFIT PLAN.—Subchapter II of chapter 73 is amended as follows:

(1) Section 1447(14) is amended by striking out "chapter 67 of this title" and inserting in lieu thereof "chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) The following provisions are amended by striking out "section 1331(d)" and inserting in lieu thereof "section 12731(d)": sections 1447(2)(C), 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

SEC. 402. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle B, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 337, 361, and 363.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 305 is amended by striking out the item relating to section 3040.

(2) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3076 through 3080.

(3) The table of sections at the beginning of chapter 331 is amended by striking out the items relating to section 3212 and sections 3217 through 3225.

(4) The table of sections at the beginning of chapter 333 is amended by striking out the items relating to sections 3259, 3260, and 3261.

(5) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3495 through 3502.

(6) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3541 and 3542.

(7) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3686.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 3038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 3961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 4342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 403. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—

(1) The table of chapters at the beginning of subtitle C is amended by striking out the items relating to chapters 519, 531, 541, and 549.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 519.

(3) The table of chapters at the beginning of part II of subtitle C is amended by striking out the items relating to chapters 531, 541, and 549.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 533 is amended by striking out the items relating to sections 5456, 5457, and 5458.

(2) The table of sections at the beginning of chapter 539 is amended by striking out the item relating to section 5600.

(3) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6017 and 6034.

(4) The table of sections at the beginning of chapter 573 is amended by striking out the items relating to sections 6391, 6392, 6397, 6403, and 6410.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 6389(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(2) Section 6954(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(d) REPEAL OF SECTION REDUNDANT WITH SECTION 741.—

(1) Section 5506 is repealed.

(2) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5506.

SEC. 404. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle D, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 837 and 863.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 807 is amended by striking out the items relating to sections 8076 through 8080.

(2) The table of sections at the beginning of chapter 831 is amended by striking out the items relating to section 8212 and sections 8217 through 8225.

(3) The table of sections at the beginning of chapter 833 is amended by striking out the items relating to sections 8259, 8260, and 8261.

(4) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8495 through 8502.

(5) The table of sections at the beginning of chapter 843 is amended by striking out the items relating to sections 8541 and 8542.

(6) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8686.

(7) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8819 and 8820.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 8038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 8961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 9342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 405. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNITED STATES CODE.

(a) CHAPTER 1203.—Section 12102 (as transferred and redesignated by section 302(b)(2)) is amended by striking out "section 3261 or 8261" in subsection (a) and inserting in lieu thereof "section 12107".

(b) CHAPTER 1205.—Sections of chapter 1205 (as transferred and redesignated by section 302(c)(2)) are amended as follows:

(1) Section 12203 is amended by striking out "3352, or 8352" in subsection (a) and inserting in lieu thereof "12213, or 12214".

(2) Sections 12213 and 12214 are amended by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is" in subsection (a).

(c) CHAPTER 1209.—Sections of chapter 1209 (as transferred and redesignated by section 302(e)(2)) are amended as follows:

(1) Section 12301 is amended—

(A) in subsection (b), by striking out "or Territory" and all that follows through the period at the end and inserting in lieu thereof "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)."; and

(B) in subsection (d), by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is".

(2) Section 12304 is amended—

(A) by striking out "section 673(a)" in subsection (a) and inserting in lieu thereof "section 12302(a)";

(B) by striking out "section 268(b)" in subsection (a) and inserting in lieu thereof "section 10143(a)"; and

(C) by striking out "section 3500 or 8500" in subsection (b) and inserting in lieu thereof "section 12406".

(3) Section 12305 is amended by striking out "section 672, 673, or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12301, 12302, or 12304".

(4) Section 12306 is amended by striking out "section 672" in subsection (a) and inserting in lieu thereof "section 12301".

(5) Section 12307 is amended by striking out "section 672(a) or 688", "section 1001(b)", and "chapter 67" and inserting in lieu thereof "section 688 or 12301(a)", "section 12641(b)", and "chapter 1223", respectively.

(6) Section 12308 is amended by striking out "chapter 67" and "section 1332(b)" and inserting in lieu thereof "chapter 1223" and "section 12732(b)", respectively.

(7) Section 12310 is amended by striking out "section 672(d)" in subsection (a) and inserting in lieu thereof "section 12301(d)".

(8) Section 12312 is amended by striking out "section 679(a)" in subsections (a) and (b) and inserting in lieu thereof "section 12311(a)".

(9) Section 12318 is amended—

(A) by striking out "section 673 or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12302 or 12304"; and

(B) by striking out "section 678" in subsection (b) and inserting in lieu thereof "section 12310".

(10) Section 12319(d) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(11) Section 12320 is amended by striking out "section 3353, 5600, or 8353" and inserting in lieu thereof "section 12207".

(d) CHAPTER 1219.—Sections of chapter 1219 (as transferred and redesignated by section 302(h)) are amended as follows:

(1) Section 12642 is amended—

(A) by striking out "section 1332(a)(2)" in subsection (a) and inserting in lieu thereof "section 12732(a)(2)"; and

(B) by striking out "section 1005" in subsection (b) and inserting in lieu thereof "section 12645".

(2) Section 12645 is amended by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsection (a) and inserting in lieu thereof "chapter 573, 1407, 1409, or 1411".

(3) Section 12646 is amended—

(A) by striking out "section 1332" each place it appears in subsections (a) and (b) and inserting in lieu thereof "section 12732";

(B) by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsections (a) and (b) and inserting in lieu thereof "chapter 573, 1407, or 1409"; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

"(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

"(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and

"(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

"(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.".

(4) Section 12647 is amended by striking out "chapters 337, 363, 573, 837, and 863" and inserting in lieu thereof "chapters 573, 1407, and 1409".

SEC. 406. AMENDMENTS TO TITLES 32 AND 37, UNITED STATES CODE.

(a) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 107(c) is amended by striking out "section 3496 or 8496" and inserting in lieu thereof "section 12402".

(2) Section 307(a)(3) is amended by striking out "and sections 8365 and 8366 of title 10".

(3) Section 323(c) is amended by striking out "section 3259, 3352(a), 8259, or 8352(a)" and inserting in lieu thereof "section 12105, 12213(a), or 12214(a)".

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

"309. Federal recognition of National Guard officers: officers promoted to fill vacancies.

"310. Federal recognition of National Guard officers: automatic recognition.".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 204(a)(2) is amended by striking out "section 3021, 3496, 3541, 8021, 8496, or 8541" and inserting in lieu thereof "section 10302, 10305, 10502, or 12402".

(2) Section 205(e)(2) is amended—

(A) by striking out "section 511(b) or 511(d)" in subparagraph (A) and inserting in lieu thereof "section 12103(b) or 12103(d)"; and

(B) by striking out "chapter 39" in subparagraph (B) and inserting in lieu thereof "chapter 1209".

(3) Section 905 is amended—

(A) by striking out "chapter 549" in subsection (a) and inserting in lieu thereof "chapter 1405"; and

(B) by striking out "section 5908" in subsection (b) and inserting in lieu thereof "section 14308(b)".

SEC. 407. AMENDMENTS TO OTHER LAWS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5517(d)(2) is amended by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10"

(2) Section 6323(b) is amended—

(A) in paragraph (1), by striking out "section 261 of title 10" and inserting in lieu thereof "section 10101 of title 10".

(B) in paragraph (2)(A), by striking out "3500, or 8500 of title 10" and inserting in lieu thereof "or 12406 of title 10".

(3) Sections 8332(c)(2)(B) and 8411(c)(2)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(4) Sections 8401(30) and 8456(a)(1)(A) are amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 41a(a) is amended by striking out "section 679 of title 10" and inserting in lieu thereof "section 12311 of title 10".

(2) Section 271(e) is amended by striking out "section 593 of title 10" and inserting in lieu thereof "section 12203 of title 10".

(3) Section 712(c)(1) is amended by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10".

(4) Section 713 is amended by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(5) Sections 740(c) and 741(b) are amended by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(c) INTERNAL REVENUE CODE OF 1986.—Section 219(g)(6)(A) of the Internal Revenue Code of 1986 is amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) Sections 1965(5)(B), 1965(5)(C), and 1968(a)(4)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) Section 3002 is amended—

(A) in paragraph (4), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10"; and

(B) in paragraph (6), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(e) PUBLIC LAW 99-661.—Section 403(b)(1) of Public Law 99-661 (10 U.S.C. 521 note) is amended—

(1) in subparagraph (B), by striking out "section 265" and all that follows through "of title 10" and inserting in lieu thereof "section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10";

(2) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(3) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(f) MILITARY SELECTIVE SERVICE ACT.—Section 6 of the Military Selective Service Act (50 U.S.C. App. 456) is amended—

(1) in subsection (c)(2)(A), by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10";

(2) in subsection (c)(2)(D), by striking out "section 511(b) of title 10" and inserting in lieu thereof "section 12103 of title 10"; and

(3) in subsection (d)(1), by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

TITLE V—TRANSITION PROVISIONS

SEC. 501. CONTINUATION ON THE RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF THE ARMY AND AIR FORCE.

(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this Act—

(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this Act.

(b) EXEMPTION.—This section does not apply to an officer who is—

(1) sooner transferred from an active status or discharged under some other provision of law;

(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this Act; or

(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this Act.

SEC. 502. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS.

(a) PROMOTIONS TO FILL VACANCIES.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this Act, is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this Act, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this Act.

(b) PROMOTIONS OTHER THAN TO FILL VACANCIES.—A reserve officer of the Army or Air Force who, on the day before the effective date of this Act, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this Act, to a reserve grade higher than the grade in which the officer is serving

shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this Act.

(c) OFFICERS FOUND QUALIFIED FOR PROMOTION TO FIRST LIEUTENANT.—A reserve officer of the Army or Air Force who, on the effective date of the Act, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall be promoted to that grade on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of the Act, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this Act.

(d) OFFICERS ONCE FAILED OF SELECTION.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this Act, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this Act, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this Act. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this Act, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of the Act, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this Act, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

(e) OFFICERS TWICE FAILED OF SELECTION.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this Act, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this Act.

(f) OFFICERS WITH APPROVED PROMOTION DECLINATIONS IN EFFECT.—A reserve officer of the Army who, on the day before the effective date of this Act, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the effective date of the Act, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10, United States Code (as added by this Act), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

(g) COVERED OFFICERS.—This section applies to reserve officers of the Army and Air Force who—

(1) on the day before the effective date of this Act are in an active status; and

(2) on the effective date of this Act are subject to placement on the reserve active-status list of the Army or the Air Force.

SEC. 503. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS.

(a) RECOMMENDATIONS FOR PROMOTION.—An officer covered by this section who, on the day before the effective date of the Act, has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this Act.

(b) FAILURES OF SELECTION.—An officer covered by this section who, on the day before the effective date of this Act is considered to have failed of selection for promotion one or more times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this Act, as if such failure or failures had occurred under the provisions of those chapters.

(c) OFFICERS OTHER THAN COVERED OFFICERS RECOMMENDED FOR PROMOTION.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this Act (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this Act.

(d) OFFICERS FOUND QUALIFIED FOR PROMOTION TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTENANT.—A covered officer who, on the effective date of this Act, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of the Act, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this Act.

(e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED FROM A LIST FURNISHED TO A SELECTION BOARD.—A covered officer whose name, as of the effective date of this Act, had been omitted by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this Act. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904 of title 10, United States Code, as in effect on the day before the effective date of this Act.

(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this Act is in an active status, and (2) on the effective date of this Act is subject to placement on the reserve active-status list of the Navy or Marine Corps.

SEC. 504. DELAYS IN PROMOTIONS AND REMOVALS FROM PROMOTION LIST.

(a) DELAYS IN PROMOTIONS.—(1) A delay in a promotion that is in effect on the day before the effective date of this Act under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this Act.

(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this Act, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this Act.

(b) REMOVALS FROM LIST.—An action that was initiated before the effective date of this Act under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14110(d) or 14310, as appropriate, of title 10, United States Code, as added by this Act.

SEC. 505. MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION.

During the five-year period beginning on the effective date of this Act, the Secretary of the Army and the Secretary of the Air Force may waive the provisions of section 14304 of title 10, United States Code, as added by this Act. The Secretary may, in addition, during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of title 10, United States Code, as added by this Act.

SEC. 506. ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST.

(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this Act, the Secretary of the military department concerned shall ensure that—

(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this Act, shall be placed on the list for their armed force and in their competitive category; and

(2) the relative seniority of those officers on each such list shall be established.

(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this Act, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this Act. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this Act.

SEC. 507. PRESERVATION OF RELATIVE SENIORITY UNDER THE INITIAL ESTABLISHMENT OF THE RESERVE ACTIVE-STATUS LIST.

In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 506 of this Act, the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this Act, adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date.

SEC. 508. GRADE ON TRANSFER TO THE RETIRED RESERVE.

In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this Act, the requirement for satisfactory service on the reserve active-status list contained in section 1370(d) of title 10, United States Code, as added by this Act, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this Act, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this Act.

SEC. 509. RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE.

A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this Act and who was subject to placement of the reserve active-status list on the effective date of this Act may not be discharged under section 14503 of title 10, United States Code, as added by this Act, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.

SEC. 510. MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF THE NAVY AND MARINE CORPS.

(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

(1) who—

(A) on the effective date of this Act is in an active status, and

(B) on the day before the effective date of this Act was an officer described in section 6389(e), 6397(a), 6403(a), or 6403(b) of title 10, United States Code; and

(2) who, on or after the effective date of this Act is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under section 6397 or 6403 as applicable, as in effect on the day before the effective date of this Act, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this Act.

(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

(c) An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before the effective date of this Act, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age.

TITLE VI—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

SEC. 601. EFFECTIVE DATE.

(a) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE FOR NEW RESERVE OFFICER PERSONNEL POLICIES.—(1) The provisions of part III of subtitle E of title 10, United States Code, as added by section 101, shall become effective on the first day of the ninth month that begins after the date of the enactment of this Act.

(2) Any reference in title V of this Act to the effective date of this Act is a reference to the effective date prescribed in paragraph (1).

(3) The personnel policies applicable to Reserve officers under the provisions of law in effect on the day before the date of the enactment of this Act and replaced by the Reserve officer personnel policies prescribed in part III of subtitle E of title 10, United States Code, as added by section 101, shall, notwithstanding the provisions of subsection (a), continue in effect until the effective date prescribed in paragraph (1).

(4) The authority to prescribe regulations under the provisions of part III of subtitle E of title 10, United States Code, as added by section 101, shall take effect on the date of the enactment of this Act.

SEC. 602. PRESERVATION OF SUSPENDED STATUS OF LAWS SUSPENDED AS OF EFFECTIVE DATE.

If a provision of law that is in a suspended status on the day before the effective date of this Act is transferred or amended by this Act, the suspended status of that provision is not affected by that transfer or amendment.

SEC. 603. PRESERVATION OF PRE-EXISTING RIGHTS, DUTIES, PENALTIES, AND PROCEEDINGS.

Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. SKELTON] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BUYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1040, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, this afternoon I rise in strong support of H.R. 1040, the Reserve Officer Personnel Management Act also known as ROPMA. This historic legislation, introduced by the gentleman from Mississippi [Mr. MONTGOMERY], is similar to a previous version of ROPMA that passed the House last year but died when the Senate took no action on the measure. H.R. 1040 contains only minor changes from last year's bill. The Military Forces and Personnel Subcommittee marked up this bill on March 24, and ordered it favorably reported by a rollcall vote of 13 to nothing. The House Committee on Armed Services ordered the bill favorably reported on a unanimous voice vote on May 5, 1993.

This bill was designed to be a companion bill to the Defense Officer Personnel Management Act or DOPMA, which was enacted in 1980 and today governs officer personnel management for the active components. DOPMA the active duty legislation was the first comprehensive revision of the statutes relating to the appointment, promotion, tenure and separation of regular commissioned officers in the military, on active duty. This law DOPMA included major changes in the way active duty officers are managed.

Enactment of ROPMA presently before us would constitute the first comprehensive overhaul of reserve officer personnel management statutes since the Reserve Officer Personnel Act of 1954. ROPMA is primarily concerned with the appointment, promotion, tenure and separation of officers who are not on active duty, but are in reserve status, i.e. National Guard and the Reserves.

ROPMA would parallel DOPMA to some degree by ensuring reserve officer personnel management practices that are compatible with those for active duty officers, while preserving those aspects of reserve officer personnel management that have no active duty counterpart.

The war in the Persian Gulf showed, Mr. Speaker, just how important the Reserve components are to both the total force policy and successful military operations. The emphasis on integrating missions between active and reserve components that Desert Storm showed is necessary to win a major war makes it imperative that the two elements Reserve on one hand and active

duty on the other work closely together.

ROPMA is intended to make this process easier by providing a comprehensive approach to officer management that ensures compatible practices concerning the appointment, promotion, separation, and retirement of officers in the Active and Reserve components.

ROPMA represents a significant step forward from the piecemeal approach to changing Reserve officer personnel management laws that has existed since the enactment of the Reserve Officer Personnel Act back in 1954. ROPMA would ensure a Reserve officer personnel management system that enhances the readiness of the reserve components and would foster fair and equitable practices and policies designed to attract, retain and promote the high quality Guardsmen and reservists we need for the future. The bill would also provide additional management flexibility to accommodate the needs of citizen soldiers who as we all know serve on a part time basis.

To make sure we have the kind of people we need for the high-tech military of tomorrow, and if we are to expect from them the same kind of magnificent performance we saw in the Persian Gulf, Desert Storm, then we must have a well managed Reserve and National Guard Force in which interservice and active/reserve differences are minimized. I believe ROPMA goes a long way toward achieving those objectives.

I urge passage of this legislation, H.R. 1040.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Reserve Officer Personnel Management Act, H.R. 1040, has been years in the making and is an important long-needed piece of legislation that revises and standardizes the way in which the National Guard and the Reserve officers are appointed, promoted, and separated. I compliment my colleague, also the man who always has the veteran and soldier at heart, the gentleman from Mississippi, SONNY MONTGOMERY, for his long, dedicated hours toward this bill.

Also I compliment the committee chairman, the gentleman from Missouri [Mr. SKELTON] for his devotion and steadfastness to assure that we have a system that parallels the active-duty system for officer management, that being DOPMA.

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H.R. 1040 is a complex and technical bill, but it is built on a solid base and common points in existing law that can be found among what are sometimes radically different approaches by the services for managing the officer reserve components in the National Guard.

This legislation provides a substantive improvement over the existing officer management systems, encourages new mechanisms by which the Department of Defense can better integrate the quality of officers in reserve components into the total force concept.

I know the gentleman from Missouri [Mr. SKELTON] just made some remarks regarding the success of Operation Desert Storm in which he also had a son on active duty in the Persian Gulf war. Him being on active duty, I was one who was called up as a reservist. I understand about the total force concept, not only the integration of the Reserve with the active duty, but also bringing in the National Guard.

I believe in the total force concept, and I also support its concept.

DOPMA being the active duty role of the management of officer personnel, ROPMA I concur with the gentleman from Missouri that it does parallel in part and it achieves the very same goals, and that is the true integration of quality officers from the National Guard and the Reserves into the one total force concept.

H.R. 1040 passed unanimously in the subcommittee and had strong bipartisan support in the full committee.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. SKELTON. Mr. Speaker, it is a pleasure to yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], one who has worked so hard on this piece of legislation and so much other legislation that has his fingerprints thereon, for not just the Reserve and Guard members of our armed forces, but those on active duty.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the chairman of my subcommittee for those very kind remarks. I have enjoyed working in that subcommittee. We get things done, in my opinion.

I rise in support of H.R. 1040, the Reserve Officers Personnel Management Act [ROPMA]. I have been involved in this legislation since I first introduced it in January 1988.

It took us 8 years to pass DOPMA, the Defense Officers Personnel Management Act, for the active component officers. DOPMA has worked very well in improving the management of active officers. Many of us hoped we could pass the companion reserve bill in less time. We still have a chance to do that.

This bill does two major things to the laws that govern our Reserve and National Guard officers. It provides the first comprehensive revision, since 1954, of the reserve officer management laws. ROPMA will help ensure consistent policies for officers in all the reserve components in the areas of appointment, promotion, separation and retirement. Second, it consolidates all the various provisions into a new subtitle E to title 10, thereby making it easier to find and use the laws that apply to the reserve components. Right now they are spread all through title 10.

I want to thank Chairman SKELTON, the ranking minority member, the gentleman from Arizona, Mr. JON KYL and the staff of the Military Forces and Personnel Subcommittee for their work on this bill. I also know the work that has been done by staff, so our thanks go to Jim Schweiter, Karen Heath, Charlie Tompkins, Mike Higgins, Cary Ruppert, Arch Barrett, and Bob Cover, House legislative counsel. Without their help we would not have gotten this far. As you can see, ROPMA is not a small bill, so it took a lot of effort.

You can see there are several hundred pages of codifying and bringing the Reserve officer statutes to where you can interpret them and make it easier to find.

I also want to thank Chairman DELLUMS and the gentleman from South Carolina [Mr. FLOYD SPENCE], the chairman and ranking minority of the full Armed Services Committee for their support.

This bill is fully supported by the Defense Department.

Again to the gentleman from Missouri, Mr. IKE SKELTON, I want to thank him for his leadership.

Mr. Speaker, I urge immediate passage of this legislation.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, I have no further requests for time, but I do want to thank the gentleman from Indiana [Mr. BUYER] for handling this bill today so ably, and the gentleman from Arizona [Mr. KYL] for his work, and Mr. Thompkins, the staffer, and Mr. Schweiter, the staffer, who are with us today. But for the gentleman from Mississippi [Mr. MONTGOMERY] we would not be able to take this up, and I thank the gentleman for his tireless efforts for several years in putting this together.

Mr. SKELTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VENTO). The question is on the motion offered by the gentleman from Missouri [Mr. SKELTON] that the House suspend the rules and pass the bill, H.R. 1040, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPLICABILITY OF QUALIFICATION REQUIREMENTS FOR CERTAIN DEFENSE ACQUISITION WORKFORCE POSITIONS

Mr. SISISKY. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 1378) to amend title 10, United States Code, with respect to applicability of qualification requirements for certain acquisition positions in the Department of Defense, as amended.

The Clerk read as follows:

H.R. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—APPLICABILITY OF QUALIFICATION REQUIREMENTS FOR CERTAIN ACQUISITION POSITIONS IN THE DEPARTMENT OF DEFENSE

SEC. 101. APPLICABILITY OF QUALIFICATION REQUIREMENTS FOR CERTAIN ACQUISITION POSITIONS IN THE DEPARTMENT OF DEFENSE.

Section 1724(c)(2) of title 10, United States Code, is amended—

(1) by inserting "or lower" before "grade"; and

(2) by inserting "or lower" before "level".

TITLE II—DEFENSE TECHNICAL AND CLERICAL AMENDMENTS–

SEC. 201. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) RESOLUTION OF INCONSISTENT AND DUPLICATIVE AMENDMENTS.—Section 166a of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking out "the Chairman" and all that follows through the period at the end of the sentence and inserting in lieu thereof "the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose."; and

(2) in subsection (b)(7), by striking out the second parenthetical phrase before the period at the end.

(b) DUPLICATE SECTION NUMBERS.—Title 10, United States Code, is amended as follows:

(1)(A) Chapter 141 is amended by redesignating the second sections 2410c and 2410d as sections 2410j and 2410k, respectively.

(B) The items relating to those sections in the table of sections at the beginning of such chapter are amended to reflect the redesignations made by subparagraph (A).

(2)(A) Chapter 401 is amended by redesignating the second section 4316 as section 4317.

(B) The table of sections at the beginning of such chapter is amended by striking out the last two items and inserting in lieu thereof the following:

"4316. Reporting requirements.
"4317. Military history fellowships.".

(c) CROSS REFERENCE AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) Section 1104 is amended—

(A) in subsections (a), (b), and (c), by striking out "section 8011 of title 38" and inserting in lieu thereof "section 8111 of title 38"; and

(B) in subsection (d), by striking out "section 8011A of title 38" and inserting in lieu thereof "section 8111A of title 38".

(2) Section 2145(b) is amended by striking out "means the actual cost" and all that follows and inserting in lieu thereof "has the meaning given the term 'cost of attendance' by section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).".

(3) Section 2198(c) is amended—

(A) by striking out "an annual" and inserting in lieu thereof "a"; and

(B) by striking out "section 2522" and inserting in lieu thereof "section 2506".

(4) Section 2371(g) is amended—

(A) by striking out "section 11" and inserting in lieu thereof "section 12"; and

(B) by striking out "sections 10 and 11" and inserting in lieu thereof "sections 11 and 12".

(5) Section 2372(g)(5) is amended by striking out "section 2522" and inserting in lieu thereof "section 2506".

(6) Section 2401(c)(2)(A) is amended by striking out "the Internal Revenue Code of 1954" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(7) Section 2501(a)(1)(A) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(8) Section 2535(b)(2)(B) is amended by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)".

(9) Section 2677(c)(1) is amended—

(A) by striking out "section 21A(b)(12)(F)" and inserting in lieu thereof "section 21A(b)(11)(F)"; and

(B) by striking out "(12 U.S.C. 1441a(b)(12)(F))" and inserting in lieu thereof "(12 U.S.C. 1441a(b)(11)(F))".

(10) Section 5038(e) is amended by striking out "subsection" and inserting in lieu thereof "section".

(11) Section 7721(a) is amended by striking out "(46 U.S.C 781–790)" and inserting in lieu thereof "(46 U.S.C. App. 781–790)".

(d) AMENDMENTS FOR STYLISTIC CONSISTENCY.—Title 10, United States Code, is amended as follows:

(1) Section 1597 is amended—

(A) in subsection (c)(3)—

(i) by striking out "defense agency" in subparagraph (A)(v) and inserting in lieu thereof "Defense Agency"; and

(ii) in subparagraph (C)—

(I) by striking out "defense agency" the first place it appears and inserting in lieu thereof "Defense Agency"; and

(II) by striking out "defense agency" the second place it appears and inserting in lieu thereof "Defense Agency,"; and

(B) in subsection (e), by striking out "of the date" and inserting in lieu thereof "on the date".

(2) The table of sections at the beginning of chapter 142 is amended by striking out "Sec." in the items relating to sections 2418 and 2419.

(3) Section 2513(c)(2)(B) is amended by striking out the second clause (iii) (as added by section 4223(d) of Public Law 102–484 (106 Stat. 2681)) and inserting in lieu thereof the following:

"(iv) An institution of higher education designated by a State or local government.".

(4) Section 2536 is amended by striking out the period at the end of the section heading.

(5) Section 2537(a) is amended in the first sentence by striking out "respectively, which" and inserting in lieu thereof "respectively, that".

(6) Section 2701(j)(2) is amended by striking out "applies (42 U.S.C. 9619(g))" and inserting in lieu thereof "(42 U.S.C. 9619(g)) applies".

(7) Section 2828 is amended by striking out "per annum" each place it appears in subsections (b)(2), (b)(3), and (e)(1) and inserting in lieu thereof "per year".

(e) SUBSECTION HEADINGS.—Title 10, United States Code, is amended as follows:

(1) Section 2513 (as transferred and redesignated by section 4223(b) of Public Law 102–484 (106 Stat. 2681)) is amended—

(A) by striking out "CENTERS" in the heading for subsection (b) and inserting in lieu thereof "ALLIANCES"; and

(B) by striking out "CENTER" in the heading for subsection (e) and inserting in lieu thereof "ALLIANCE".

(2) Section 2308 is amended by inserting after "(a)" the following: "FACILITATION OF PROCUREMENT.—".

(f) DATE OF ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 1151(e)(1) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "October 23, 1992,".

(2) Section 1331a(b) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993" and inserting in lieu thereof "October 23, 1992,".

(3) Section 1802(b) is amended by striking out "not more than two years before the date of the enactment of this chapter" and inserting in lieu thereof "after October 22, 1990".

(g) PUNCTUATION, SPELLING, ETC.—Title 10, United States Code, is amended as follows:

(1) Section 1078a is amended—

(A) in subsection (b)(3)(C), by striking out "subparagraphs" and inserting in lieu thereof "subparagraph"; and

(B) in subsection (d)(2)(A), by inserting "under" after "coverage".

(2) Section 1590(a) is amended by striking out the second semicolon at the end of paragraph (1).

(3) Section 1802(a) is amended by striking out "carrys" and inserting in lieu thereof "carries".

(4) Section 2321(d)(1)(B) is amended by striking out "adherance" and inserting in lieu thereof "adherence".

(5) Section 2361(b)(2) is amended by striking out "inconsisent" and inserting in lieu thereof "inconsistent".

(6) Section 2410j (as redesignated by subsection (b)(1)(A)) is amended in subsection (f)(2)(B) by striking out "aid" and inserting in lieu thereof "aide".

*(7) The heading of section 2505 is amended by striking out "**capabilty**" and inserting in lieu thereof "**capability**".*

(8) Section 2516(b)(4) is amended by striking out "dual use" and inserting in lieu thereof "dual-use".

(9) Section 2524(b)(2)(F) is amended by striking out "work force" both places it appears and inserting in lieu thereof "workforce".

(10)(A) The heading of section 4313 is amended to read as follows:

"§4313. National Matches and small-arms school: expenses".

(B) The item relating to section 4313 in the table of sections at the beginning of chapter 401 is amended to read as follows:

"4313. National Matches and small-arms school: expenses.".

(h) REDUNDANT PROVISIONS.—Title 10, United States Code, is amended as follows:

(1) Section 1598(e) is amended by striking out paragraph (4).

(2) Section 2537 is amended by striking out subsection (d).

(i) CLARIFICATION OF AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) Paragraph (4) of section 1142(b) is amended by striking out "job placement assistance" and all that follows through the end of the paragraph and inserting in lieu thereof "job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aides.".

(2) Section 2433(e) is amended—

(A) by striking out "a at least 15 percent increase" both places it appears and inserting in lieu thereof "an increase of at least 15 percent"; and

(B) by striking out "a at least 25 percent increase" both places it appears and inserting in lieu thereof "an increase of at least 25 percent".

SEC. 202. AMENDMENTS TO FISCAL YEAR 1993 DEFENSE AUTHORIZATION ACT.

(a) IN GENERAL.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 195 (106 Stat. 2349) is amended by striking out "initiative" and inserting in lieu thereof "Initiative".

(2) Section 234(e)(2) (106 Stat. 2357) is amended by striking out "in subsection (d)" and inserting in lieu thereof "in subsection (c), as redesignated by subsection (b)(2)(B)".

(3) Section 243 (106 Stat. 2360) is amended by striking out "Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.), the Secretary of Defense is authorized" and inserting in lieu thereof "The Secretary of Defense is authorized".

(4) Section 653(b)(2) (106 Stat. 2428) is amended by striking out "section 1463" and inserting in lieu thereof "section 1463(a)".

(5) Section 704(1) (106 Stat. 2432) is amended by striking out "paragraph (15)(D)" and inserting in lieu thereof "paragraph (15)".

(6) Section 801(f) (106 Stat. 2444) is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) by striking out 'Secretary with' in paragraph (2) and inserting in lieu thereof 'Secretary toward attaining';".

(7) Section 843(c) (106 Stat. 2469) is amended—

(A) by striking out "On the date which is two years after the date of the enactment of this Act," and inserting in lieu thereof "Effective October 23, 1994,"; and

(B) by striking out "section 2350a" and inserting in lieu thereof "sections 2350a(c) and 2350d(c)".

(8) Section 911(b)(2) (106 Stat. 2473) is amended by striking out the period and closing quotation marks at the end and inserting in lieu thereof closing quotation marks and a period.

(9) Section 933 (106 Stat. 2476) is amended—

(A) in subsection (b)(1), by striking out "or" and inserting in lieu thereof "and"; and

(B) in subsection (c), by inserting a comma after "United States Code".

(10) Section 1312(b)(4) (106 Stat. 2548) is amended by striking out "the" in the quoted matter stricken out in the amendment made by subparagraph (B).

(11) Section 1135(c)(2) (106 Stat. 2541) is amended by striking out "unit deployment designators" and inserting in lieu thereof "Unit Deployment Designators".

(12) Section 1314(b) (106 Stat. 2549) is amended in the second sentence by adding a period after "of member nations".

(13) Sections 1814 and 1834 (106 Stat. 2583, 2586) are each amended by striking out "section" and inserting in lieu thereof "subtitle".

(14) Section 4219(c)(2)(H) (106 Stat. 2672) is amended—

(A) by striking out "Work force" and inserting in lieu thereof "Workforce"; and

(B) by striking out "work force" and inserting in lieu thereof "workforce".

(15) Section 4301(b)(1)(C) (106 Stat. 2697) is amended by inserting "the first place it appears" before "the following".

(16) Section 4407(b)(2) (106 Stat. 2708) is amended by inserting "the second place it appears" before "and inserting in lieu thereof".

(17) Section 4422(a) (106 Stat. 2718) is amended—

(A) in paragraph (3), by striking out "after" after "by inserting"; and

(B) in paragraph (4), by inserting "the first reference to" after "after" the first place it appears.

(18) Section 4470(a) (106 Stat. 2753) is amended—

(A) by striking out "section 4303(a)" in paragraph (1) and inserting in lieu thereof "section 4443(a)"; and

(B) by striking out "section 4303(b)" in paragraph (2) and inserting in lieu thereof "section 4443(b)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484).

SEC. 203. AMENDMENTS TO FISCAL YEAR 1992/1993 DEFENSE AUTHORIZATION ACT.

(a) REPEAL OF PREVIOUSLY CODIFIED PROVISION.—Section 523 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1363) is repealed.

(b) OTHER AMENDMENTS.—The National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) is amended as follows:

(1) Section 236(d) (as redesignated by section 234(b)(2)(B) of Public Law 102–484 (106 Stat. 2356)) is amended by striking out "subsection (a) through (d)" in paragraph (1) and inserting in lieu thereof "subsections (a) through (c)".

(2) Section 704(a) (105 Stat. 1401) is amended by striking out the closing quotation marks and period at the end of paragraph (2) of the subsection inserted by the amendment made by that section.

(3) Section 3136(b)(1)(C)(ii)(I) (105 Stat. 1578) is amended by striking out "section 2522 of title 10, United States Code" and inserting in lieu thereof "section 2506 of title 10, United States Code".

(4) Section 3137(c) (105 Stat. 1579) is amended by striking out the comma after "the Secretary of Energy".

SEC. 204. AMENDMENTS TO OTHER LAWS.

(a) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 205(a)(7)(B) is amended by striking out "the Veterans' Administration," and inserting in lieu thereof "the Department of Veterans Affairs,".

(2) Section 411f(c) is amended by striking out "section 401 of this title" and inserting in lieu thereof "section 401(a) of this title".

(b) PUBLIC LAW 98–94.—Section 1215(c) of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 688; 10 U.S.C. 2452 note), is amended by striking out "regulatons" and inserting in lieu thereof "regulations".

(c) PUBLIC LAW 101–189.—Effective as of November 29, 1989, paragraph (1) of section 631(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1449) is amended by inserting a comma after "18" in the matter struck by such paragraph.

(d) STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.—Section 11(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2(a)(1)) is amended by striking out "six-month period" and inserting in lieu thereof "fiscal year".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REAL PROPERTY REPAIRS AND MINOR CONSTRUCTION DURING FISCAL YEAR 1993.

In addition to using the funds specifically appropriated for real property maintenance under the heading "REAL PROPERTY MAINTENANCE, DEFENSE" in title II of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1885), the Secretary of Defense and the Secretary of a military department may also use funds appropriated to the Secretary concerned for operation and maintenance under any of the first 11 headings of such title in order to carry out a major repair project that costs $15,000 or more or a minor construction project that costs not less than $15,000 and not more than $300,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. SISISKY] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. SISISKY].

GENERAL LEAVE

Mr. SISISKY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1378, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SISISKY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1378, which was reported out of the Armed Services Committee on a unanimous vote last week. This is a very simple bill in three titles. The second and third titles contain about 17 pages of technical corrections to title 10 of the United States Code and a clarification of the military construction laws. These technical amendments do such things as fixing spelling and punctuation, and correcting headings and cross references.

The reason for this bill is not the technical corrections, however. It lies in title I, which is all of 11 lines. Since time immemorial, when the government lays off people, a civil servant has been allowed to bump someone at the next lower grade, who in turn bumps someone at the next lower grade and so forth.

Two years ago, when we passed the Defense Acquisition Workforce Improvement Act, we created a formal, professional cadre of acquisition specialists.

We established certain criteria, saying you had to have such education, such training, such experience to be in this cadre. So as not to penalize older people who could not meet the new criteria, we allowed them to stay in the cadre in the same or a similar position.

Those were the key words—same or similar position. The point was to say they would not be fired, but they could not be promoted without meeting the new criteria.

Unfortunately, that term "same or similar position" causes a problem when there is a RIF, because it means these people can not bump someone below them, it means they cannot serve in a lower position. That was not our intent. The intent was to prevent their promotion, not to put them in a position where they would be fired because they could not bump.

H.R. 1378 simply adds the words "or lower" at two points in the law. This allows these people to serve in the same or similar position—or in a lower position—thus preserving the rights they have always had. In other words,

this bill fixes an unintended consequence of the act we passed 2 years ago. We have been asked to act quickly because RIF's will begin soon. I urge rapid approval of H.R. 1378.

Mr. HANSEN. Mr. Speaker, I yield myself as much time as I may consume.

This legislation is fairly straight forward.

As the gentleman from Virginia [Mr. SISISKY] just explained, H.R. 1378 makes necessary fixes in previous legislation that could produce unintended problems for members of the defense acquisition community.

It also contains a number of other technical fixes to last year's defense authorization bill, all noncontroversial and with no real substantive importance.

But, because of the possible problems facing certain defense acquisition personnel facing RIF's, it is important that the House move quickly to send this legislation to the other body for prompt consideration.

Mr. Speaker, I want to commend my colleague, Mr. SISISKY, on the open and bipartisan manner in which he has handled this bill, and urge that the House adopt it without delay.

□ 1510

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SISISKY. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. VENTO). The question is on the motion offered by the gentleman from Virginia [Mr. SISISKY] that the House suspend the rules and pass the bill, H.R. 1378, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 10, United States Code, to revise the applicability of qualification requirements for certain acquisition workforce positions in the Department of Defense, to make necessary technical corrections in that title and certain other defense-related laws, and to facilitate real property repairs at military installations and minor military construction during fiscal year 1993.".

A motion to reconsider was laid on the table.

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 873, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 873, as amended.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 140, not voting 30, as follows:

[Roll No. 158]

YEAS—262

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Coleman
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Strickland
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Walsh
Washington
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—140

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Franks (CT)
Franks (NJ)
Gallegly
Gillmor
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hastert
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Knollenberg
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McDade
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Paxon
Penny
Pombo
Portman
Quinn
Roberts
Rogers
Rohrabacher
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Slattery
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—30

Ackerman
Barton
Bevill
Boehlert
Carr
Clyburn
Collins (IL)
DeFazio
Dornan
Ford (TN)
Gekas
Gingrich
Henry
Leach
McCurdy
McHugh
Mfume
Mollohan
Ros-Lehtinen
Rose
Rush
Sangmeister
Smith (MI)
Snowe
Stokes
Stupak
Thomas (WY)
Torres
Waters
Wheat

□ 1541

The Clerk announced the following pairs:

On this vote:

Mr. Ackerman and Mr. Sangmeister for, with Mr. Barton against.

Mr. KLEIN, Mrs. ROUKEMA, Mr. PETE GEREN of Texas, and Mr. WHITTEN changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on Tuesday, May 11, 1993, I was unavoidably detained and missed a record vote on H.R. 873, the Gallatin Range Consolidation and Protection Act. Had I been present, I would have voted "nay" on Rollcall No. 158, to agree to suspend the rules and pass H.R. 873.

PERSONAL EXPLANATION

Mr. STUPAK. Mr. Speaker, I was unavoidably absent when the House cast vote 158 as I was attending a regional hearing and site visit of the Base Closure and Realignment Commission in Michigan.

These hearings relate to the potential closure of K.I. Sawyer Air Force Base, a matter of utmost concern to Michigan's First Congressional District. If I had been present, I would have voted "yea" on vote 158.

FREEDOM OF THE PRESS IN PANAMA

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BISHOP. Mr. Speaker, freedom of the press should be a bulwark of strength for the foreign policy of America. Without it, there can be no democracy. Last month, the Supreme Court of Panama overruled the expropriation of one of the leading newspapers of Latin America, El Panama America. Manuel Noriega's military dictatorship carried out the expropriation because of the newspaper's courageous condemnation of Noriega's human rights violations.

The Interamerican Press Association fought to have El Panama America returned to its rightful owners. One of these papers, Miami-based Diario Las Americas a Spanish-language newspaper founded by Francisco and Horacio Aquirrre, was among the newspapers which battled for El Panama America. The Supreme Court spoke the last word. Freedom of the press survived.

Diarios Las Americas also published an editorial which I call to the attention of my colleagues, who like myself, are anxious to lend support to freedom of the press in the world. I include it for reprinting in the RECORD.

AN HISTORICAL DECISION BY THE SUPREME COURT OF JUSTICE OF PANAMA

In 1968, the military dictatorship that took over the Republic of Panama stripped the Arias Guardia family of their publishing company, the "Editora Panama America", which was owned by Panama's distinguished ex president, Harmodio Arias, and rightfully belongs to the Arias Guardia family. "Editora Panama America" publishes various things including newspapers.

Protest over the confiscation of the publishing company received protests not only from within Panama but from without as well, especially in the western hemisphere, not just because it violated the right to private property but also because it violated the right to freedom of expression. The InterAmerican Press Association (SIP) denounced this crime and called for the dictatorial government of Panama and the current constitutional government of Panama, to return this publishing company to its rightful owners. Nonetheless, the current government's Executive branch resisted returning "Editora Panama America" to its rightful owners, a move which tarnished the image and prestige of the democratic government, as an institution.

The Panamanian legislature approved a law that returned the confiscated properties to the Arias family and allowed for them not be obligated by whatever commitments were made by the previous administration of the companies.

Presidente Endara vetoed the law which was later appealed in the Supreme Court of Panama on behalf of the legitimate owners headed by the well-respected lady who is Rosario Arias Guardia de Galindo.

The Panamanian Supreme Court, in a unanimous decision, ruled on behalf of the Arias Guardia family and against the presidential veto of the laws that was approved by the Legislative Chamber favoring the claims of "Editora Panama America, S.A.".

Thus it has ended a sad chapter of the history of freedom of expression in Panama in a satisfactory manner for the institutional prestige of the Republic. The highest Court of Justice of the Nation has done its duty on behalf of the essential respect to private property and freedom of expression, so vital also.

Diario Las Americas, which always defended through more than twenty years the rights of "Editora Panamá América, S.A." now expresses its satisfaction regarding the decision rendered by the Panamanian Supreme Court of Justice. Likewise, it congratulates the Arias-Galindo family for the victory obtained thanks to their resolute defense of their rights. Around this process, it must be remembered the memory of the distinguished Panamanian attorney and politician, Dr. Gilberto Arias Guardia, who died a few years ago and who, together with his sister, Mrs. Rosario Arias Guardia Galindo—highly regarded in her country—struggled for this cause, not only because of economic interests which, for them, were less important, but mainly because of the moral and juridical caliber of what they were defending.

INTRODUCING THE NUCLEAR NON-PROLIFERATION POLICY ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, with the end of the cold war and the breakup of the Soviet Union, nuclear proliferation is now the leading military threat to the national security of the United States and its allies.

While the threat of a full-scale nuclear war is at its lowest level in decades, the chances of nuclear terrorism, regional nuclear conflict, or an accidental nuclear launch are increasing all the time. North Korea is dropping out of the Nuclear Non-Proliferation Treaty [NPT] and may already have the bomb, Iran is not far away, the Soviet breakup has loosened controls on nuclear materials and technology, and Ukraine and Kazakhstan may keep the large nuclear arsenals on their soil. Saddam Hussein would have had the bomb, had he waited a year or two on invading Kuwait, and Israel, India, and Pakistan have all emerged as de facto nuclear weapon states located in unstable regions. China is suspected of continuing to support nuclear weapons activities in a number of countries.

While all of this is taking place, the NPT is coming up for review and extension in March 1995. The NPT is not a perfect agreement—for example, it allows countries to acquire a stockpile of bomb-grade material and then withdraw from the treaty on 3 months notice. But with more than 150 parties, the NPT is the cornerstone of international efforts to stop proliferation. The United States should support the indefinite extension of the NPT in 1995 and, at the same time, support additional measures to close some of the loopholes in the treaty and pull in countries which are not party to the NPT.

Today, I am introducing legislation that will set forth a blueprint for accomplishing these important objectives. The bill, the Nuclear Non-Proliferation Policy Act of 1993, establishes 16 policy goals for the United States to pursue on nuclear arms control and nonproliferation. The arms control objectives are less important now for their own sake than for preventing nonproliferation. A comprehensive test ban, a global ban on the production of fissile material, verified dismantlement of United States and Russian nuclear warheads, and controls on fissile material from dismantled nuclear weapons are measures that will help build international support for tough nonproliferation agreements, could cap the nuclear weapons programs of the threshold nuclear weapons states, and could reduce the chances of theft or diversion of nuclear material from the former Soviet Union.

Additionally, the United States must seek to strengthen International Atomic Energy Agency [IAEA] nonproliferation safeguards, tighten nuclear export controls in the United States and elsewhere, and increase the role of the U.N. Security Council in enforcing international nonproliferation agreements. These measures will help prevent the next Saddam Hussein from building a secret nuclear weapons program.

Finally, the United States must make it clear that it will make no first use of nuclear weapons, that our nuclear weapons will only be used to deter nuclear attack. We should seek to have the other permanent members of the U.N. Security Council—who are also the other nuclear weapon states—adopt such a "no first use" policy and to pledge to assist any country which is party to the NPT and against which first-use of nuclear weapons is made. These positive and negative security assurances can help build crucial support among developing countries for lengthy or indefinite extension of the NPT. On the other hand, if the United States begins targeting third world countries with nuclear weapons, as some in the Pentagon propose, it would give added rationale for those countries to build their own nuclear deterrents.

None of the objectives in this bill will, on its own, stop proliferation. But by adopting a com-

prehensive nonproliferation policy, the United States can accomplish its overall goal of ending the further spread of nuclear weapons capability, rolling back proliferation where it has occurred, and preventing the use of nuclear weapons anywhere in the world.

It's time for the United States to take on the security challenges of the post-cold war world. The Nuclear Non-Proliferation Policy Act of 1993 will help point us in the right direction.

H.R. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Non-Proliferation Policy Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States has been a leader in seeking to contain the spread of nuclear weapons technology and materials.

(2) With the end of the Cold War and the breakup of the Soviet Union, the proliferation of nuclear weapons, especially to countries in unstable regions, is now the leading military threat to the national security of the United States and its allies.

(3) The United Nations Security Council declared on January 31, 1992, that "proliferation of all weapons of mass destruction constitutes a threat to international peace and security" and committed to taking appropriate action to prevent proliferation from occurring. The establishment of the United Nations Special Commission on Iraq was an important precedent to that end.

(4) Aside from the 5 declared nuclear weapon states, a number of other nations have or are pursuing nuclear weapons capabilities.

(5) Regional nuclear arms races pose perhaps the most likely prospect for the future use of nuclear weapons.

(6) The break-up of the Soviet Union has increased the threat of nuclear proliferation.

(7) In May 1992, Ukraine, Belarus, and Kazakhstan signed the protocols to START I and committed to acceding to the Nuclear Non-Proliferation Treaty as non-nuclear weapon states "in the shortest possible time".

(8) Iraq had a substantial, clandestine nuclear weapons program which went undetected by the International Atomic Energy Agency (IAEA) inspection process and was greatly assisted by dual-use exports from western countries, including the United States.

(9) North Korea's statement of intent to withdraw from the Nuclear Non-Proliferation Treaty, and its refusal to allow IAEA inspections of all of its known and suspected nuclear facilities, are unprecedented actions which could greatly undermine efforts to stop nuclear proliferation.

(10) Brazil and Argentina had substantial programs to build nuclear weapons and South Africa has admitted developing and building 6 nuclear weapons, but in response to reduced regional tensions and other factors, all 3 countries have renounced nuclear weapons and accepted IAEA safeguards for all of their nuclear facilities, and South Africa has acceded to the Non-Proliferation Treaty as a non-nuclear weapon state.

(11) United States security interests and current policy and practices are consistent with the terms of the South Pacific Nuclear Free Zone Treaty which, like nuclear weapons free zones in Latin America, South Asia, and the Middle East that the United States supports, can contribute to efforts to avoid regional conflicts and prevent arms races.

(12) The IAEA is a valuable tool to counter proliferation, but the effectiveness of its system to safeguard nuclear materials may be adversely affected by institutional and financial constraints.

(13) The Nuclear Non-Proliferation Treaty, which codifies world consensus against further nuclear proliferation and is scheduled for review and extension in 1995, should be expanded in membership and extended indefinitely, and additional steps should be taken to strengthen the international nuclear nonproliferation regime.

(14) The Nuclear Nonproliferation Act of 1978 declared that the United States is committed to continued strong support for the Nuclear Non-Proliferation Treaty and to a strengthened and more effective IAEA, and established that it is United States policy to establish more effective controls over the transfer of nuclear equipment, materials, and technology.

(15) The goal of the United States is to end the further spread of nuclear weapons capability, roll back nuclear proliferation where it has occurred, and prevent the use of nuclear weapons anywhere in the world. To that end the United States should adopt a comprehensive nuclear nonproliferation policy.

SEC. 3. COMPREHENSIVE NUCLEAR NON-PROLIFERATION POLICY.

In order to end nuclear proliferation and reduce current nuclear arsenals and supplies of weapons-usable nuclear materials, it shall be the policy of the United States to pursue the following objectives:

(1) Encourage Ukraine to join Kazakhstan and Belarus in ratifying the START I treaty and encourage Ukraine and Kazakhstan to join Belarus in voting to accede to the Nuclear Non-Proliferation Treaty as non-nuclear weapon states in the shortest possible time.

(2) Encourage Belarus, Ukraine, and Kazakhstan to remove all nuclear weapons from their territory, accept IAEA safeguards over all of their nuclear facilities, and implement effective controls on nuclear and nuclear-related dual-use exports.

(3) Reach an agreement with the Russian Federation—

(A) to deactivate and retire from field deployment on an accelerated schedule all weapons to be withdrawn under the START I treaty and the START II treaty;

(B) on data exchanges and inspection arrangements to verify the elimination of all nuclear weapons scheduled to be withdrawn under the START I treaty and the START II treaty; and

(C) to place all fissile materials from such weapons under bilateral or international controls, or both.

(4) Prepare for the ratification of the START II treaty by seeking the exchange of information between the United States and the Russian Federation on nuclear weapons stockpiles and fissile material facilities and inventories as required by the United States Senate as a condition to its approval of the START I treaty.

(5) Conclude a multilateral comprehensive nuclear test ban treaty by early 1995, before the conference to renew and extend the Nuclear Non-Proliferation Treaty is held.

(6) Ratify the START II treaty in the United States and encourage ratification of that treaty by the Russian Federation, and reach agreement with the Russian Federation to end the production of new types of nuclear warheads.

(7) Conclude a multilateral agreement to reduce the strategic nuclear arsenals of the United States and the Russian Federation to within a range of 1,000 to 2,000 each, with lower levels of the United Kingdom, France, and the People's Republic of China.

(8) Conclude additional multilateral agreements to significantly and continuously reduce the nuclear arsenals of all countries through a stage-by-stage process.

(9) Reach immediate agreement with the Russian Federation to halt permanently the production of fissile material for weapons purposes, and achieve worldwide agreements to—

(A) end by 1995 the production of fissile material for any purpose;

(B) place existing stockpiles of such materials under bilateral or international controls' and

(C) require all countries to place all of their nuclear facilities dedicated to peaceful purposes under IAEA safeguards.

(10) Strengthen IAEA safeguards to more effectively verify that countries are complying with their nonproliferation commitments and provide the IAEA with the political, technical, and financial support necessary to implement the necessary safeguard reforms.

(11) Strengthen nuclear export controls in the United States and other nuclear supplier nations, impose sanctions on individuals, companies, and countries which contribute to nuclear proliferation, and provide increased public information on nuclear export licenses approved in the United States.

(12) Reduce incentives for countries to pursue the acquisition of nuclear weapons by seeking to reduce regional tensions and to strengthen regional security agreements, and encourage the United Nations Security Council to increase its role in enforcing international nuclear nonproliferation agreements.

(13) Support the indefinite extension of the Nuclear Non-Proliferation Treaty at the 1995 conference to review and extend that treaty and seek to ensure that all countries sign the treaty or participate in a comparable international regime for monitoring and safeguarding nuclear facilities and materials.

(14) Adopt a United States policy of "no first use" of nuclear weapons, reach agreement with the other nuclear weapon states to adopt such a policy and to assist immediately any country which is a party to the Nuclear Non-Proliferation Treaty should the use of nuclear weapons be initiated against such country.

(15) Conclude a verifiable bilateral agreement with the Russian Federation under which both countries withdraw from their arsenals and dismantle all tactical nuclear weapons, and seek to extend to all nuclear weapon states this zero option for tactical nuclear weapons.

(16) Sign the appropriate protocols to the South Pacific Nuclear Free Zone Treaty.

SEC. 4. REQUIREMENTS FOR IMPLEMENTATION OF POLICY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and not later than February 1 of each year thereafter, the President shall submit to the Congress a report on—

(1) the actions the United States has taken and the actions the United States plans to take during the succeeding 12-month period to implement each of the policy objectives set forth in this Act;

(2) actions which have been taken by the Russian Federation, by the other former Soviet republics, and by other countries and institutions to achieve those policy objectives; and

(3) obstacles that have been encountered in seeking to implement those policy objectives.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

(b) REPORT ON NUCLEAR STOCKPILE INFORMATION.—The President shall submit a report to the Congress on the specific actions that have been taken and those that are planned to comply with [Condition 8 concerning the "Nuclear Stockpile Weapons Arrangement" of the Senate resolution of ratification of the START I treaty (Treaty Doc. 102-20 and 102-32)].

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "fissile materials" means highly enriched uranium and plutonium;

(2) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235;

(3) the term "IAEA" means the International Atomic Energy Agency;

(4) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the IAEA, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(5) a policy of "no first use" of nuclear weapons means a commitment not to initiate the use of nuclear weapons;

(6) the term "non-nuclear weapon state" means any country that is not a nuclear weapon state;

(7) the term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(8) the term "nuclear weapon state" means any country that is a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(9) the term "START I treaty" means the Treaty on the Reduction of Strategic Offensive Arms, signed by the United States and the Union of Soviet Socialist Republics on July 31, 1991; and

(10) the term "START II treaty" means the Treaty on Further Reductions and Limitations of Strategic Offensive Arms, signed by the United States and the Russian Federation on January 3, 1993.

NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, we have just returned from a trip to Mexico, as observers, and yes, as investigators of the conditions in that nation preliminary to the decision we are all going to be called upon to make on the North American Free-Trade Agreement [NAFTA].

This afternoon—or on another day—each of us will be speaking on what impressed us the most from this experience. From my prior knowledge of Mexico and my concerns for the viability of this economic marriage between Mexico and Canada and the United States, I can only report that every concern I had was reinforced, no fear quietened or put to rest.

We all saw heart-breaking poverty and frightening pollution of the water supply flowing directly into canals that empty into the shared waters of the Rio Grande River. We all spoke with Mexican workers, who, because they are employed, are much better off than millions of Mexicans who have been moved off their land into abject poverty, but these workers, Mr. Speaker, are pitifully poor even though they work as hard as any industrial workers in the world.

You will be hearing about all of this in depth from other Members who were on the trip. I want to address two issues directly related to my personal response to what we saw on the May 1 weekend.

One is the threat to the sovereignty of not only the United States but of both Canada and Mexico. The other is the very shape of the NAFTA agreement, which will address none of the critical problems which we were exposed to on this trip.

The Canadian Free-Trade Agreement and NAFTA and GATT provide for dispute resolution panels to adjudicate differences in the laws and regulations of the signator nations. This mechanism allows for questions to be raised and settled over domestic law inside each nation that can be construed to be structural impediments to the free flow of goods and services across national borders.

Any protective legislation or agreement now on our books—whether "Buy America" or an import duty—whether a quota, such as the Voluntary Restraint Agreements on machine tools, or a label identifying product, Georgia peaches or Chesapeake Bay oysters, will be negotiated away or become subject to challenge.

These laws, and court actions upholding these laws, when challenged by the foreign signators, are heard by a binational panel in NAFTA and, in the GATT, by the Multinational Trade Organization. These panels are comprised of international trade lawyers whose firms, for the most part, represent transnational corporations who are the major supporters of all of these trade treaties.

What kind of laws will be challenged? Under the existing GATT, Canada is challenging our restrictions on asbestos, charging that our high safety standards have been put in place simply to keep Canadian asbestos out of our markets.

Fortunately, under the current GATT, this decision—along with the decision that dolphin-free nets must be used by commercial fisherman, a challenge to our law brought by Mexico—are made in American courts, reviewing American law made by the representatives of the American people.

After all of these trade treaties—if they pass—no longer will our laws or our people have the protection of the American Constitution, nor will the people of Mexico or Canada have the protection of their Constitutions. We will all be at the mercy of supranational panels of international lawyers, meeting in secret, having the power to overturn the actions of this body, the decisions of our courts—all the way to the Supreme Court.

We have already given this power away to the Canadian Free-Trade Agreement. And using our experiences of the last couple of years, this is the record. Of the 14 or so challenges to laws, both of Canada and the United States, the panel has overturned the laws of our sovereign nations in two-thirds of the cases.

In one of the major cases brought by the American pork farmers, it was discovered—upon investigation—that one of the attorneys picked for the American side of the panel was a registered foreign agent of the Government of Canada. When this was exposed, he stepped down. However, you will not be surprised to hear that the American pork producers lost their case, but more than that, the U.S. Congress and the courts lost their power over that section of the law.

Consitutional? I think not. The President of Mexico is reported to be gravely concerned for his nation's sovereignty in the side agreements to the NAFTA on labor and the environment. If that is so, I would suggest that he study the operation of the dispute mechanism embedded in the main body of the NAFTA Agreement which he says that he will not allow to be amended.

He may want to amend it himself.

My second major concern is that NAFTA does not address either the problems of Mexico nor the threat to this country of the loss of jobs to a country where the average wage nationwide is 50 cents an hour.

When the European Community was being structured—back in the mid 1970's—Spain, Portugal, Greece, Ireland, and the southern part of Italy wanted to be included in the emerging European Community.

Recognizing the disparate standard of living in those nations vis a vis the accepted standards in the more highly industrialized nations, accepting the responsibility for creating a level playing field among the nations in the EC, so that the poorer nations would not be exploited and the wealthier not lose jobs and tax base, the European Community started planning in the late 1970's for the amalgamation of these nations into the Community by 1992.

Greece came in much earlier than the others on the basis of a trade agreement signed previously with Great Britain, but they still had to fulfill criteria. In their case, it was to become a democracy.

Spain and Portugal were accepted in in 1985 and 1986, respectively, but it was

not until 1992 that they gained full acceptance, along with Ireland and southern Italy, because many issues took that long to negotiate.

Having seen the conditions in Mexico, having talked with both sides—those for and against NAFTA—I am convinced that the NAFTA must be renegotiated with the care and responsible concern shown by the European Community for their neighbors. Currently, we are pushing to do in 3 short years what the European Community worked on for 15 years.

This is a very serious matter, which will ultimately affect the standards of all three nations—living, labor, health, and safety. It is imperative that every effort be made to level the competitive playing field among the three nations of North America before we sign on.

Some agreement must be hammered out but NAFTA is too much, too soon, and leaves too many problems between our nations unaddressed, problems which should not be solved by international lawyers meeting behind closed doors.

□ 1550

Madam Speaker, there will be additional statements on this floor over the next few days about the NAFTA Agreement from the eight Congresswomen who visited Mexico, and we will discuss some of the specific economic condition down there at that time.

CAMPAIGN FINANCE: SCANDAL AND SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 15 minutes.

Mr. HORN. Madam Speaker, if there is one issue that has brought this noble institution into disrepute, it is our scandalous system of campaign finance.

It has been said that "American politics is held hostage by big money interests. Members of Congress now collect more than $2.5 million in campaign funds every week while political action committees, industry lobbies, and cliques of $100,000 donors buy access to Congress and the White House."

That statement was from the official Clinton-Gore position paper on campaign finance reform their successful campaign in 1992.

I happened to use it in my own campaign, in my Republican literature to Democrats, and I must say I strongly stood with that. Needless to say, I am disappointed at what has happened in the last few years.

Nothing would raise the level of respect for Congress more than putting an end to this scandal by implementing serious and extensive campaign finance reform. Many Americans feel that most, if not all Members of Congress are bought and paid for. You and I know that is not true, but such anger and such voter outrage fueled much of the so-called Perot phenomenon, and no amount of clever explanations by defenders of the current system will persuade people otherwise. Once again, the people know that something is wrong, and it is time for the politicians to wake up, catch up, put up or shut up.

Campaign finance is not simply an issue for political scientists and good Government types. The harmful effects are clear. Conventional wisdom says gridlock results from a President of one party and a Congress controlled by the other. But the real gridlock occurs when Congress, both Democrats and Republicans, refuses to make the tough decisions for fear of alienating often competing groups on the same issue, and thus losing campaign contributions.

□ 1600

The failures of Congress to reform our health care and legal systems are two prime examples of campaign finance gridlock.

The 1992 year-end report of the Federal Election Commission illustrates the extent of the problem:

First, House incumbents overwhelmingly outspent challengers: $322 million to $181 million.

Second, PAC's contributed $95 million to incumbents and $12 million to challengers.

The goal of serious campaign finance reform must be to create competitive elections, giving people real choices and keeping incumbents in touch with their districts. Although I have advocated term limits since 1973, and I continue to do so, real, competitive elections will produce far more beneficial results.

Previous campaign finance reforms have failed because they did not deal with the two major causes of the problem: First, contributions from outside the candidate's district and, second, unlimited campaign spending.

Mr. President, who stressed this issue during his campaign, has just introduced his proposals for campaign finance. Unfortunately, the President's proposals fail to offer real solutions to this problem.

Are there good points in the President's proposal? Of course there are. Virtually any reform has to be an improvement. But the tragedy of the President's proposal, indeed, it may be a metaphor for this administration so far, is what might have been had the President been bold, resolute and kept his promise to the American people.

Where he should have been bold, he has chosen to be timid and has sent a package of reforms that fall far, far short of what, during the campaign and the first months of his administration, he said he would do.

Where he should have been resolute, he has compromised in the face of opposition from leaders of his own party in Congress.

Where he should have kept his promise to the America people, and where there was absolutely no excuse not to, he has broken his word again.

The President has chosen to send a weak, deceptive package to Congress. There is just enough rhetoric in the package to label it a reform proposal and some have fallen for it, and some who should know better have fallen for it but there are more than enough loopholes to ensure that nothing will really change.

Above all, the greatest failure of this package is the failure to seriously reform the current limits on contributions by Political Action Committees.

For Presidential elections, where PAC's currently have the least influence, President Clinton has proposed limiting PAC contributions to $1,000.

For elections to the Senate, where PAC's do have considerable influence, President Clinton has proposed reducing PAC contributions in half to $2,500.

Yet for elections to the House, where PAC's have the most influence and where the harmful effects of PAC contributions are most clear, President Clinton has completely abandoned the hopes of reformers and recommended no change at all for the current PAC limit of $5,000 per election.

As with other proposals by this administration, the American people will begin to see through this deceptive package of illusory reforms.

If President Clinton is serious about campaign finance reform, he will find House Republicans, in particular freshman House Republicans, his strongest allies. We stand willing to work with President Clinton and could give him a victory which his administration, and the country, sorely needs.

Here are a few essential steps that President Clinton and Congress can take to clean up this mess.

First, set a meaningful ceiling on the amount that can be spent in a congressional election. A combined total of $600,000 for the primary and general seems more than adequate for a congressional campaign, $600,000 is one dollar for every resident of the average congressional district and $2 to $3 for every registered voter. That is more than enough for a candidate to run for an open seat or to run against an incumbent who would be limited to the same amount, which is also why many incumbents fear spending limits.

Second, abolish political action committees [PAC's]. PAC's can now give up to $5,000 to a candidate in each election, $5,000 in the primary and $5,000 in the general. We simply do not need this massive amount of special interest money, often not even connected with the local district, having such a strong influence on elections.

If it is not politically possible at this time to abolish PAC's, then we should

have the guts to limit them to a maximum contribution per election of $1,000, which is the same as the limit on individual donations.

Third, we ought to require that at least 75 percent of contributions must come from within the candidate's district. This will force candidates and incumbents to gain support from their own district. Often, the victor in a congressional race receives 50 percent or more of his or her contributions from outside the district. This reform will bring politics back home to the constituents, where it belongs.

Fourth, require public service time on television and radio for presentations by candidates and for debates among the opponents in the primary and general election. The airwaves are a public resource. They should be used to let voters see the candidates present their cases and how they handle a live, unrehearsed situation.

Fifth, let candidates for office make their case in a voter booklet sent to each voter before the election. This is already done by the secretary of state in California and many other States for initiatives and referenda, and by county registrars for local initiatives and nonpartisan offices across many States in this country. The same opportunity should be given to all of the candidates for each partisan office.

Sixth, I will introduce this shortly: Pass a constitutional amendment giving Congress the authority to limit spending in campaigns. The 1976 Supreme Court decision in Buckley versus Valeo struck down earlier limits on campaign spending by an individual candidate as an abridgement of free speech. In my judgment, that decision is absolute nonsense and absolutely against the public interest of this country. A constitutional amendment would remedy this. We could still permit a wealthy individual to spend his own money up to the limits, and I would like to see that limit lower, at perhaps $100,000 for everybody in this country, but this would prevent what is becoming increasingly common, wealthy individuals simply spending their opponents into submission.

If this trend continues, Congress will be a collection of millionaires—on both sides of the aisle. Ironically, this would greatly lessen the influence of PAC's, but it would hardly be a representative body. As James Madison would say, this is a cure worse than the disease.

Currently, I am one of only 25 Members of the House of Representatives who does not take PAC money. Many more would like to be able to refuse PAC money, but worry that if they do, their next opponent would win simply by outspending them.

Real reform can only come when a majority in Congress has the courage to take a leap of faith and reform our campaign finance laws. If necessary, they need to be willing to run the risk of losing an election in order to do what is right for the country. Who knows, they just might find that a vote for reform will be worth far more in the eyes of the voters than all the out-of-district and PAC contributions they could collect.

WOMEN MEMBERS' DELEGATION TO MEXICO: THE HUMAN FACE OF TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 15 minutes.

Ms. KAPTUR. Madam Speaker, I wish to join this evening my colleague, the gentlewoman from the State of Maryland [Mrs. BENTLEY] in reporting on our delegation mission to Mexico, the first women Members' factfinding mission in over one decade.

I would like to enter my full remarks into the RECORD, but this evening I wish to say that this was the first ever congressional women Members' delegation to Mexico.

We were there for over 4 days, and our focus was extensive investigations and discussions with individuals from the Government as well as the ordinary people of Mexico regarding the proposed North American Free-Trade Agreement.

The bipartisan group of Members titled our mission "The Human Face of Trade." We wanted to open up this agreement and take a look at what it meant not just for the people of the United States and Canada but for the people of Mexico as well, because, of course, the ordinary people of Mexico will not have a chance to speak out on this agreement in that one-party state.

Our delegation began its journey in Mexico City by first meeting with Minister of Commerce Jaime Jose Serra Puche. The delegation also met in Mexico City with a broad array of environmental, human-rights, religious, and labor organizations comprised of ordinary citizens both in Mexico City and in the border communities that we traveled to just south of Brownsville, TX, and McAllen, TX, in Matamoros and Reynosa, Mexico.

□ 1610

While we were in Mexico City, our delegation conducted the first ever binational meeting with women legislators from all political parties, from both the United States and Mexico. This event occurred at the home of United States Ambassador to Mexico, John Negroponte. Our delegation visited barrios in Mexico City and colonias on the border in the Matamoros and Reynosa. We spoke at length with the people who lived there under appalling conditions.

Our delegation discussed border area issues with the residents there, with the so-called Maquiladora workers who work in the U.S. companies located south of the border.

We met with local government officials, industry leaders, and others. Gov. Ann Richards of Texas made a special effort to fly down to Mexico and join our group for an evening of very frank discussions, I might say, about the proposed NAFTA agreement.

Our delegation returned from our mission to Mexico with these major findings: First, it is absolutely necessary that the United States and Mexico take the time necessary to shape a continental agreement that encompasses the full range of economic, social, and political issues attendant to such integration.

The current treaty does not even come close to what is needed. The dislocation of jobs, of people who have been thrown out of work in the United States and in Canada already, by unregulated trade, confirms the dangers of continuing a hands-off approach to a narrowly cast trade and tariff agreement that does not address these broader issues. This is especially true where wage disparities and living conditions are as divergent as they are in the United States and Mexico.

The majority of our meetings were with Mexican women, who have been most affected by trade policy. We have met thousands of United States workers who have lost their jobs to these companies that have located to Mexico, largely United States companies, now over 2,000 of them, south of our border with Mexico.

But it is interesting that over 70 percent of the people that have been hired to work in these relocated plants are women, Mexican women, women who live at a subsistence level. In fact, we met one woman who worked for Zenith Corp., who, after 10 years of seniority with our U.S. company located south of the border, takes home, for 48 hours of work in a week, $15.75. That is her net pay.

Mexico's rising unemployment rate and falling real wages have severely jeopardized the ability of millions of Mexicans to feed and house their families.

We met many of these people.

High-wage manufacturing jobs have been drained from communities across our country to low-wage Maquiladoras operating in Mexico. We visited many of these runaway plants along the border. But in Mexico, these jobs have not resulted in rising standards of living for Maquiladora workers. In fact, that was a misconception I had. I went down there, and I thought if I met the workers in Mexico who are workers in these United States firms that have relocated, their standard of living would be a little bit higher than people who would be working for Mexican-owned companies. I found that was not true.

In fact, as you look at what has happened in Mexico, the rising unemploy-

ment rate and falling real wages have severely jeopardized the ability of millions of Mexicans to feed and house their families. We heard that between 35 and 40 percent of the people of Mexico are now part of what we call the informal sector of their economy. That means they do not really get a paycheck. That means that they are out there selling Chiclets on the street, their children are performing as little clowns on the corners to try to pick up little bits of money that they can take home to buy beans and rice for their families. It is truly a low-wage economy.

High-wage manufacturing jobs have been drained from communities across our country to these low-wage companies. But in Mexico these jobs have not resulted in rising standards of living for Maquiladora workers, but have resulted in a double tragedy because of the subsistence wages that workers are paid. So not only do United States workers lose their jobs here, but Mexican workers earn so very little money that there is not any way for those wages to produce the great booming consumer market that we hear so much about from the proponents of this agreement.

And why? Because El Pacto, the wage agreement between the leaders of the Government of Mexico, industries that have located there, and official unions have held wages to one-tenth of United States levels. In fact, even though the Government claims there has been an 8 percent increase in wages in Mexico over the last year, inflation down there in fact is running at 15 percent and interest rates are 35 percent. So there is no way for the average family down there to upgrade their standard of living.

In fact, workers in Mexico have seen their real wages decline over the last decade, and all economists will agree on that.

We met with apparel workers in Mexico City who earn 40 cents an hour. We visited people in Mexico City neighborhoods who asked us to help them in their efforts to gain the right to food as a part of Mexico's constitution because so many of their friends are hungry. And we met with them in their neighborhoods, saw where they lived, went to the neighborhood stores that they tried to set up in a kind of cooperative way, trying to buy beans and rice so that they can subsist.

I asked them how do you define poverty, thinking that they would give me a dollar or peso figure definition. They said:

> We define poverty as anyone in our country who has less than 60 percent of the calories needed on an average day to merely meet subsistence levels of food and nutrition.

Further, it became clear to us that United States companies operating in Mexico along with Mexico's own domestic firms have enjoyed the additional advantages of extremely lax enforcement of environmental and labor regulations as well. For anyone with a conscience, it is disturbing to view the conditions under which the majority of Mexican people live.

Our delegation would like to highlight these specific findings, and over the weeks we will be bringing more of this information forward to the American people.

First of all, access for Mexicans, including all of its elected representatives, even the fledging opposition party, to information about the ongoing trade negotiations. We were asked for copies of the proposed treaty. The people of Mexico have so little information about what is being proposed that the ordinary people, including some of their own elected representatives, do not have information from the ruling party.

That information is now tightly controlled by the Mexican Government, inhibiting informed policy making.

We also were asked that we as Members of Congress pay more attention to the human impact of Mexico's recent economic policies, which has gone largely ignored in this country. These impacts include unemployment that is approaching 40 percent, changes in Mexico's land ownership system for its farmers that will drive 10 million more people off the land. These people are wandering through Mexico, flocking into some of the large cities. They no longer are growing their own food. This is not an inconsequential issue. It has an impact on our own immigration policy and also has an impact on whether Mexico will be able to become the stable economy as our closest neighbor.

We saw the inability of wage growth to keep pace with inflation. We also noted that Mexico's foreign debt has also climbed, despite their efforts to try to lower it, from $89 billion to $103 billion now. The severe economic restraints that they have put on their own people have not resulted in Mexico being able to pay off the debts that it owes to foreign banks. That is a huge part of the problem they are facing.

We received a request from concerned Mexican scholars that United States and the press investigate the structure of Mexico's stock market, which they claim is controlled by Mexico's wealthiest families, allowing them to manipulate it for their profit, profit for a very few.

We received a complaint by border communities that the Mexican Government assesses a housing tax on the low-paid workers in these Maquiladora plants, which amounts to over $62.5 million cumulatively last year; but these funds were not returned to the border area where housing is desperately needed and where environmental cleanup is desperately needed.

We received a request that our Congress give more attention to the Mexican Government's preparation of its environmental inspectors, which may be inadequate to train them to recognize instances of environmental noncompliance. In fact, we were told that the average inspector, most of them having just been hired because of this agreement being talked about, they received about 45 hours of training.

□ 1620

The North American Free-Trade Agreement as negotiated will not contribute to the promise of raising standards of living for the families of all three nations. The negotiated agreement's narrow focus on tariff and investment barriers overlooks issues which a true free trade agreement must address: real enforcement of labor and environmental laws, wage disparities in export-oriented industries, accessible dispute resolution which provides justice to citizens and businesses of all three nations, and implementation of the polluter-pays principle to fund desperately needed environmental cleanup and infrastructure improvements.

We need more attention to the human rights issue and to the electoral process in Mexico itself, which even makes their Presidential elections called into question because of the manner in which people are treated at the polls and the way votes are counted.

The gradual and successful integration of the countries of the European Community should serve as a model for our own continent. We invited the Mexican women parliamentarians from all parties to continue discussions with us on these important questions. We will reissue that invitation.

Our delegation intends to continue meeting as a working group. We are in the process of preparing a detailed report on our findings that we will use to share with our congressional leadership, Members of Congress, President Clinton and other administration officials, as well as the American people.

We also hope to work with the Office of the Trade Representative to ensure that negotiations on NAFTA's parallel agreements fully address our concerns. Currently they do not.

This factfinding mission to Mexico was the first step on a journey that will not end until we forge an agreement with Mexico that will truly benefit the families of both of our countries, and all countries on our continent.

I thank the Chair for its patience this evening.

THE NORTH AMERICA FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. VELÁZQUEZ] is recognized for 5 minutes.

Ms. VELÁZQUEZ. Madam Chairman, I want to thank Congresswomen KAPTUR and BENTLEY for organizing the trip to Mexico which was attended by a group of Congresswomen last week. Congresswoman KAPTUR'S leadership and hard work on this issue has made a lasting impression on me and many new female Members. Having just returned from that trip and having just witnessed the maquiladoras up close, I can say in no uncertain terms, that there is no way that Congress can approve NAFTA in its present form.

Before going on, let me set the record straight on one point. This delegation of Congresswomen visited the maquiladoras to examine conditions first hand. This delegation traveled to Mexico to search for answers to the question, "What will NAFTA mean for American and Mexican workers?" Sure, we already had our doubts about the agreement, but no hard conclusions, that was until our visit.

The stories that were recounted by the people living in the shadows of the maquiladoras, the portraits that were painted every day by the women we met, these encounters told a grim, futuristic story of NAFTA. If NAFTA were approved now, the maquiladoras would increase tenfold. And with this increase would come an increase in the conditions we saw.

The living conditions of thousands of families working for the infamous maquiladoras are deplorable. Many of these families were promised good jobs and decent wages more than 10 years ago by American-based companies. The reality is that the majority of the families are struggling under substandard living conditions. We witnessed the plight of families living in cardboard houses, with no electricity or running water, where children play in fields of toxic waste. The runaway plants that were established in the border area are not lifting the Mexican standard of living. We met many families who asked us to help them in their effort to gain the right for food because of the rampant hunger they are experiencing. These families are suffering from a high-risk experiment of unregulated economic integration. The environmental disaster created by the dumping of toxic waste as a result of the maquiladoras is an indicator of things to come with NAFTA, American companies avoiding pollution controls in the United States and making huge profits at the expense of others.

Like many other Caribbean and Latin American countries, Mexico serves as a major apparel assembly center for the United States market because of its low level of wages, benefits and poor working conditions. Labor standards are not only low in terms of the needs of Mexican workers but, more importantly, are disastrously low compared to those in the United States.

Never before have three countries with such disparate standards of living proposed economic integration. We must seek gradual and equal integration of labor, occupational safety, health and environmental standards for Mexico, the United States, and Canada. The challenge for the United States is to expand trade in North America and at the same time, offer a real opportunity to upgrade wages and living standards in Mexico without compromising them in the United States.

In its present form NAFTA does not pass this test and the flaws in the agreement are so deep and so complex that supplemental agreements will not satisfy these needs either. NAFTA should be relegated to a text book experiment that was never attempted.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SNOWE (at the request of Mr. MICHEL) for today, on account of attending a funeral.

Mr. MCHUGH (at the request of Mr. MICHEL) for today, on account of official business.

Mr. LEACH (at the request of Mr. MICHEL) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PORTER) to revise and extend their remarks and include extraneous material:)

Mr. ISTOOK, for 5 minutes each day, on May 18 and 19.

Mr. KASICH, for 60 minutes, today.

Mr. FRANKS of Connecticut, for 60 minutes each day, on May 12, 19, and 26.

Mr. FRANKS of Connecticut, for 5 minutes, on May 13.

Mr. SOLOMON, for 60 minutes each day, on June 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, and 30.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. RUSH, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mrs. MINK, for 5 minutes, today.

Mr. BACCHUS of Florida, for 5 minutes each day, on May 12 and 13.

Mr. BLACKWELL, for 60 minutes, on May 13.

Mr. CONYERS, for 60 minutes each day, on May 19 and 26.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. KAPTUR, for 15 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. VELÁZQUEZ, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. TALENT.
Mr. KING.
Mrs. VUCANOVICH.
Mr. SOLOMON in two instances.
Mr. GILMAN.
Mr. ZELIFF in two instances.
Mr. FISH in three instances.
Mr. PETRI in two instances.
Mr. BATEMAN.
Mr. RAMSTAD.
Mr. CRANE.
Mr. MOORHEAD.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. VENTO.
Mr. STOKES.
Mr. FORD of Michigan.
Mr. ANDREWS of Maine.
Mr. HOYER.
Mr. BILBRAY.
Mr. ACKERMAN.
Mr. BONIOR in two instances.
Mrs. MINK.
Mr. STARK in two instances.
Ms. PELOSI.
Ms. NORTON.
Ms. ENGLISH of Arizona in two instances.
Mr. FOGLIETTA in three instances.
Mrs. LLOYD.
Mrs. KENNELLY.
Mr. DELLUMS in two instances.
Ms. MARGOLIES-MEZVINSKY.
Mr. MFUME.
Mr. VISCLOSKY.
Mr. DINGELL.
Mr. STUDDS.
Mr. HOAGLAND.
Mr. MINGE in two instances.
Mr. ANDREWS of New Jersey.
Mr. PAYNE of New Jersey.

(The following Members (at the request of Ms. VELÁZQUEZ) and to include extraneous matter:)

Mr. CONDIT.
Mr. SPENCE.
Mr. BRYANT.
Ms. HARMAN in two instances.
Mr. FAZIO.
Ms. NORTON.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 349. An act to provide for the disclosure of lobbying activities to influence the Fed-

eral Government, and for other purposes; to the Committee on the Judiciary.

S.J. Res. 58. Joint resolution to designate the weeks of May 2, 1993, through May 8, 1993, and May 1, 1994, through May 7, 1994, as "National Correctional Officers Week"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Ms. KAPTUR. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 12, 1993, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1177. A letter from the Acting Secretary of the Air Force, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1178. A letter from the Director of Defense Research and Engineering, Department of Defense, transmitting the Department's annual report on research, development, test and evaluation chemical/biological defense programs during fiscal year 1992, and the fiscal year 1992 report on the non-use of human subjects for testing of chemical or biological agents, pursuant to 50 U.S.C. 1511; to the Committee on Armed Services.

1179. A letter from the Secretary, Department of Health and Human Services, transmitting a report on estimated funds for abatement of lead-based paint hazards in HUD-owned properties, pursuant to 42 U.S.C. 4822(f); to the Committee on Banking, Finance and Urban Affairs.

1180. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's report on comparability of pay and benefits, pursuant to Public Law 101-73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

1181. A letter from the Resolution Trust Corporation, Interim CEO, Thrift Depositor Protection Oversight Board, President, transmitting the Board's semiannual report on the activities and efforts of the RTC; to the Committee on Banking, Finance and Urban Affairs.

1182. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. act 10-22, "Confirmation temporary Amendment Act of 1993," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1183. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. act 10-23, "Right to Privacy Amendment Act of 1993," pursuant to D.C. Code, section 1-233(c)(3); to the Committee on the District of Columbia.

1184. A letter from the District of Columbia Retirement Board, transmitting financial disclosure statements of Board members for calendar year 1992, pursuant to D.C. Code, section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

1185. A letter from the Secretary of Education, transmitting final regulations, Fund for the Improvement of Postsecondary Education, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1186. A letter from the Chairperson, Advisory Committee on Student Financial Assistance, transmitting a report on Student Loan Program Simplification: Interim Recommendations; to the Committee on Education and Labor.

1187. A letter from the National Foundation on the Arts and the Humanities, transmitting a draft of proposed legislation to authorize appropriations for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services for fiscal years 1994 and 1995; to the Committee on Education and Labor.

1188. A letter from the Secretary of Energy, transmitting the annual/quarterly report on the Strategic Petroleum Reserve, pursuant to 42 U.S.C. 6241(g)(8); to the Committee on Energy and Commerce.

1189. A letter from the Secretary of Health and Human Services, transmitting a report on Health Care to Hispanics in Medically Underserved Areas; to the Committee on Energy and Commerce.

1190. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's 1992 annual report of its activities, pursuant to 15 U.S.C. 78w(b); to the Committee on Energy and Commerce.

1191. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of proposed lease to the United Kingdom for defense articles (Transmittal No. 4-93), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1192. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification relating to enhancements or upgrades of technology described in AECA certification 90-29 (Transmittal No. B-93), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1193. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 93-12), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1194. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1195. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. Contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Affairs.

1196. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from passage of S. 328, pursuant to Public Law 101-508, section 13101(a) (104 St. 1388-582); to the Committee on Government Operations.

1197. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in March 1993, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1198. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to provide assurance that contractors do not include unallowable costs in their proposals for settlement of indirect costs incurred under Federal agency contracts, and other purposes; to the Committee on Government Operations.

1199. A letter from the Administrator, Panama Canal Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1200. A letter from the Acting Director, Peace Corps, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1201. A letter from the Chairman, U.S. International Trade Commission, transmitting the semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, Section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1202. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

1203. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting the 1991 annual report on the activities and operations of the Department's Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

1204. A letter from the Federal Bureau of Prisons, Director, transmitting the fiscal year 1992 annual report of the Board of Directors of Federal Prison Industries, Inc., pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary

1205. A letter from the Chief Justice, Supreme Court of the United States, transmitting a request for urgent supplemental appropriations; to the Committee on the Judiciary.

1206. A letter from the Deputy Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1207. A letter from the Acting Administrator, General Services Administration, transmitting the fiscal year 1994 General Services Administration's Public Buildings Service Capital Improvement Program, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1208. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, dated 21 May 1990, submitting a report together with accompanying papers and illustrations (H. Doc. No. 103-83); to the Committee on Public Works and Transportation and ordered to be printed.

1209. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the annual report to the Congress on actions taken and planned to implement fully the metric system of measurements; to the Committee on Science, Space, and Technology.

1210. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled "Family Preservation and Family Support Act of 1993"; to the Committee on Ways and Means.

1211. A letter from the Secretary of Energy, transmitting notification of a 45-day

delay in the submittal of the Implementation Plan for Defense Nuclear Facilities Safety Board Recommendation 92-7 concerning technical training and qualification of personnel through the defense nuclear facilities complex; jointly, to the Committee on Armed Services and Energy and Commerce.

1212. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a draft of proposed legislation entitled, "Nuclear Regulatory Commission Authorization Act for fiscal years 1994 and 1995"; jointly, to the Committees on Natural Resources and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. H.R. 843. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; with an amendment (Rept. 103-85). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R.698. A bill to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park; with an amendment (Rept. 103-86). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 240. A bill to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; with an amendment (Rept. 103-87). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1308. A bill to protect the free exercise of religion (Rept. 103-88). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAMILTON: Committee on Foreign Affairs. Senate Joint Resolution 45. An act authorizing the use of United States Armed Forces in Somalia; with amendments (Rept. 103-89). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Omitted from the Record of May 7, 1993]

The Committee on Agriculture discharged from further consideration of H.R. 873; H.R. 873 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of New Jersey (for himself, Mr. FORD of Michigan, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. MARTINEZ, Mr. ROEMER, Mr. BECERRA, Mr. BAESLER, and Mr. UNDERWOOD):

H.R. 2055. A bill to amend the Higher Education Act of 1965 to simplify the delivery of student loans to borrowers and eliminate borrower confusion; to provide a variety of repayment plans, including income contingent repayment through the EXCEL Account, to borrowers so that they have flexibility in managing their student loan repayment obligations, and so that those obligations do not foreclose community service-oriented career choices for those borrowers; to replace, through an orderly transition, the Federal Family Education Loan Program with the Federal Direct Student Loan Program; to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program through the use of a direct student loan program; and for other purposes; to the Committee on Education and Labor.

By Mr. BATEMAN:

H.R. 2056. A bill to designate the Federal building located at 600 Princess Anne Street in Fredericksburg, VA, as the "Samuel E. Perry Postal Building"; to the Committee on Post Office and Civil Service.

By Mr. BERMAN:

H.R. 2057. A bill to amend title 11 of the United States Code with respect to the waiver of sovereign immunity by governmental units; to the Committee on the Judiciary.

H.R. 2058. A bill to amend title 11 of the United States Code with respect to the distribution of securities under a plan under chapter 11 of such title; to the Committee on the Judiciary.

By Mr. BLUTE:

H.R. 2059. A bill to rescind unused funds resulting from the abolition of the Select Committees on Aging; Children, Youth and Families; Hunger; and Narcotics Abuse and Control; to the Committee on Appropriations.

By Mr. CLEMENT:

H.R. 2060. A bill to amend the Internal Revenue Code of 1986 to allow the moving expense deduction for moving expenses associated with the sale of a residence eligible to receive benefits under an approved airport noise compatibility program; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 2061. A bill to establish a U.S. Health Service to provide high quality comprehensive health care for all Americans and to overcome the deficiencies in the present system of health care delivery; jointly, to the Committees on Energy and Commerce, Armed Services, Banking, Finance and Urban Affairs, the District of Columbia, Education and Labor, the Judiciary, Post Office and Civil Service, Veterans' Affairs, and Ways and Means.

By Mr. FISH:

H.R. 2062. A bill to amend chapter 11 of title 38, United States Code, to provide that veterans who are former prisoners of war shall be deemed to have a service-connected disability rated as total for the purposes of determining the benefits due to such veterans; to the Committee on Veterans' Affairs.

By Ms. FURSE:

H.R. 2063. A bill to amend existing law relating to the National Coastal Resources Research and Development Institute; to the Committee on Merchant Marine and Fisheries.

By Ms. HARMAN (for herself, Mr. MATSUI, Mr. BROWN of California, Mr. MCKEON, Mr. LEWIS of California, and Mr. HUNTER):

H.R. 2064. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for defense conversion; to the Committee on Ways and Means.

By Mr. HOAGLAND (for himself and Mr. SHAW):

H.R. 2065. A bill to facilitate the creation of Financial Asset Securitization Investment Trusts; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 2066. A bill to extend until January 1, 1999, the existing suspension of duty on certain parts and accessories of indirect process electrostatic photocopying machines; to the Committee on Ways and Means.

By Mr. KYL (for himself and Ms. FOWLER):

H.R. 2067. A bill to amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, and for other purposes; to the Committee on Armed Services.

By Mr. MACHTLEY:

H.R. 2068. A bill to revive, and extend until January 1, 1999, the suspension of duty on certain narrow fabric weaving machines; to the Committee on Ways and Means.

H.R. 2069. A bill to revive, and extend until January 1, 1999, the suspension of duty on decorative lace-braiding machines; to the Committee on Ways and Means.

By Mr. MFUME (for himself, Mr. VELÁZQUEZ, and Mr. TOWNS):

H.R. 2070. A bill to amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Ms. NORTON (for herself and Mr. MCDERMOTT):

H.R. 2071. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to eliminate congressional review of newly passed District laws, to provide the District of Columbia, with autonomy over its budgets, and for other purposes; jointly to the Committees on the District of Columbia and Rules.

By Mr. PENNY (for herself, Ms. LONG, Mr. LEACH, Mr. MINGE, Mr. POMEROY, and Mr. JOHNSON of South Dakota):

H.R. 2072. A bill to reform the payment limitation provisions of the Food Security Act of 1985, and for other purposes; to the Commerce on Agriculture.

By Mr. PETRI (for himself, Mr. GEJDENSON, Mr. ACKERMAN, Mr. GUNDERSON, Mr. SUNDQUIST, Mr. TAYLOR of North Carolina, Mr. CUNNINGHAM, Mr. INHOFE, and Mr. DURBIN):

H.R. 2073. A bill to establish a higher education loan program in which a borrower's annual repayment obligation is dependent upon both postschool income level and borrowing history, and for other purposes; jointly to the Committees on Education and Labor and Ways and Means.

By Mr. ROSE:

H.R. 2074. A bill to authorize appropriations for the American Folklife Center for fiscal years 1994, 1995, 1996, and 1997; to the Committee on House Administration.

By Mr. SLATTERY:

H.R. 2075. A bill to require truth in disclosures for financial intermediaries, and for other purposes; jointly to the Committees on Energy and Commerce and Banking, Finance and Urban Affairs.

By Mr. STARK (for himself, Mr. McCLOSKEY, Mr. PENNY, and Mr. FALEOMAVAEGA):

H.R. 2076. A bill to establish a policy of the United States and respect to nuclear nonproliferation; to the Committee on Foreign Affairs.

By Mr. STARK:

H.R. 2077. A bill to amend the Public Health Service Act and the Internal Revenue Code of 1986 to establish an entitlement of certain individuals to receive payments for attendance at certain health professions schools; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. TORRICELLI:

H.R. 2078. A bill to amend the Solid Waste Disposal Act to require comprehensive plans and cooperative programs for the recycling of plastics, automobiles, and appliances; to the Committee on Energy and Commerce.

By Mr. TRAFICANT:

H.R. 2079. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act with respect to myelogram-related arachnoiditis; to the Committee on Energy and Commerce.

By Mr. VENTO:

H.R. 2080. A bill to improve the management of public lands used for military purposes, to require assessments of future needs for withdrawals of public lands for such uses, and for other purposes; jointly, to the Committees on Armed Services and Natural Resources.

By Mrs. VUCANOVICH (for herself and Mr. BILBRAY):

H.R. 2081. A bill to prohibit site characterization of the Yucca Mountain site in the State of Nevada during fiscal years 1994 through 1998, and for other purposes; jointly, to the Committees on Natural Resources and Energy and Commerce.

By Mr. WYDEN (for himself and Mr. LIPINSKI):

H.R. 2082. A bill to direct the Secretary of Transportation to dispose of certain vessels in the National Defense Reserve Fleet; to the Committee on Merchant Marine and Fisheries.

By Mr. MACHTLEY:

H.R. 2083. A bill to revive, and extend until January 1, 1999, the suspension of duty on certain carding and spinning machines; to the Committee on Ways and Means.

By Ms. ESHOO:

H. Con. Res. 98. Concurrent resolution expressing the sense of the Congress regarding the accounting standards proposed by the Financial Accounting Standards Board; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. ROWLAND, Mr. STUMP, Mr. GILMAN, and Mr. BACHUS of Alabama):

H. Con. Res. 99. Concurrent resolution expressing the sense of Congress concerning the appropriate level of funding for Department of Veterans' Affairs research programs for fiscal year 1994; to the Committee on Veterans' Affairs.

By Ms. BYRNE:

H. Res. 168. Resolution amending the Rules of the House of Representatives to limit election expenditures by candidates for the House of Representatives; to the Committee on Rules.

By Mr. KILDEE (for himself, and Mr. GOODLING):

H. Res. 169. Resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

130. By the SPEAKER: Memorial of the Legislature of the State of Washington, relative to the E. Coli outbreak; to the Committee on Agriculture.

131. Also, memorial of the Legislature of the State of New Hampshire, relative to government-owned land; to the Committee on Natural Resources.

132. Also, memorial of the Legislature of the State of Louisiana, relative to Ranch Apocalypse; to the Committee on the Judiciary.

134. Also, memorial of the Legislature of the State of Nebraska, relative to stability and unity of families in the United States; to the Committee on Rules.

133. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to the Pipeline Safety Act; to the Committee on Public Works and Transportation.

135. Also, memorial of the House of Representatives of the State of Illinois, relative to Social Security; to the Committee on Ways and Means.

136. Also, memorial of the Legislature of the State of Washington, relative to Federal income taxes; to the Committee on Ways and Means.

137. Also, memorial of the Legislature of the State of Montana, relative to the North American Free Trade Agreement; to the Committee on Ways and Means.

138. Also, memorial of the Legislature of the State of Missouri, relative to the Social Security System; to the Committee on Ways and Means.

139. Also, memorial of the Legislature of the State of Nebraska, relative to service personnel and civilians in Southeast Asia; jointly, to the Committees on Intelligence (Permanent Select) and Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. MINK introduced a bill (H.R. 2084) for the relief of Fanie Phily Mateo Agneles; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Ms. VELAZQUEZ.

H.R. 39: Mr. DIXON, Mr. TORRES, Mr. OBERSTAR, Mr. RAMSTAD, Mr. GUTIERREZ, and Mr. FISH.

H.R. 58: Mr. ROHRABACHER.

H.R. 94: Mr. PRICE of North Carolina.

H.R. 159: Mr. HUTCHINSON.

H.R. 302: Mr. MENENDEZ and Mr. MARTINEZ.

H.R. 304: Mr. KIM.

H.R. 325: Mr. LEVIN, Mr. DEFAZIO, Mr. RUSH, Mr. CLEMENT, Mr. EMERSON, Mr. DICKS, Ms. FURSE, Mr. MFUME, Mr. QUILLEN, Mr. DEUTSCH, Mr. BROWN of Ohio, and Mr. POMBO.

H.R. 326: Mr. BILBRAY, Mr. HINCHEY, Mr. PALLONE, Mr. GILMAN, Mr. BOEHLERT, Mr. MOLLOHAN, Mr. WALKER, Mr. MORAN, Mr. JOHNSTON of Florida, Mr. LIPINSKI, Mr. SYNAR, Mr. FIELDS of Louisiana, Ms. LONG, Mr. RUSH, Mr. MCDADE, Mr. CARDIN, Mr. DEUTSCH, Mr. BORSKI, and Mr. MFUME.

H.R. 349: Mr. HAMBURG.

H.R. 425: Mr. BAESLER, Mr. BEILENSON, Mr. CARR, Mrs. CLAYTON, Mr. CONYERS, Mr. HOLDEN, Mr. HORN, Mr. HUTTO, Mr. INSLEE, Mr. KLEIN, Mr. KYL, Mr. LAZIO, Ms. MALONEY, Mrs. MINK, Mr. MORAN, Mr. OBERSTAR, Mr. OLVER, Ms. ROYBAL-ALLARD, Mr. STOKES, and Mr. TRAFICANT.

H.R. 427: Mr. BAESLER, Mr. BEILENSON, Mr. CARR, Mrs. CLAYTON, Mr. CONYERS, Mr. HOLDEN, Mr. HORN, Mr. HUTTO, Mr. INSLEE, Mr. KLEIN, Mr. KYL, Mr. LAZIO, Ms. MALONEY, Mrs. MINK, Mr. MORAN, Mr. OBERSTAR, Mr. OLVER, Ms. ROYBAL-ALLARD, Mr. STOKES, and Mr. TRAFICANT.

H.R. 428: Mr. GALLEGLY, Mr. GILCHREST, Mr. WOLF, and Ms. SNOWE.

H.R. 429: Mr. FRANKS of New Jersey, Ms. FOWLER, Mr. INHOFE, and Mr. SMITH of Oregon.

H.R. 518: Mr. DIXON, Mr. LANTOS, Mr. FINGERHUT, and Mr. HOAGLAND.

H.R. 544: Mr. SHAYS.

H.R. 559: Mr. NADLER, Ms. LOWEY, Mr. STOKES, Mr. MINETA, Mr. OWENS, Mrs. SCHROEDER, Mr. PORTER, Mr. INGLIS, Mr. STUDDS, Mr. PAYNE of New Jersey, Mr. HINCHEY, Mr. MCCLOSKEY, Mr. HAMBURG, Mr. FOGLIETTA, Mr. YATES, Mr. MACHTLEY, Mr. RANGEL, Mr. FISH, and Mr. JOHNSTON of Florida.

H.R. 579: Mr. FALEOMAVAEGA.

H.R. 735: Mr. SCOTT, Mr. SANDERS, Mr. ZIMMER, and Mr. FRANKS of New Jersey.

H.R. 749: Mr. ROSE.

H.R. 818: Mr. MOAKLEY, Mr. TUCKER, Mr. CONYERS, and Mr. BERMAN.

H.R. 852: Mr. ROYCE and Mr. MANZULLO.

H.R. 911: Mr. CANADY and Mr. PACKARD.

H.R. 918: Mr. HASTINGS, Mr. DELLUMS, and Ms. VELAZQUEZ.

H.R. 999: Mr. BLUTE, Mr. CASTLE, and Mrs. MEYERS of Kansas.

H.R. 1029: Mr. SHAYS.

H.R. 1036: Mr. MURPHY, Mr. KREIDLER, Mr. FOGLIETTA, Ms. HARMAN, and Mr. LAROCCO.

H.R. 1078: Mr. MACHTLEY.

H.R. 1079: Mr. MACHTLEY.

H.R. 1080: Mr. MACHTLEY.

H.R. 1081: Mr. MACHTLEY.

H.R. 1082: Mr. MACHTLEY.

H.R. 1083: Mr. MACHTLEY.

H.R. 1135: Mr. EVANS.

H.R. 1191: Mr. MACHTLEY.

H.R. 1245: Mr. BLACKWELL.

H.R. 1270: Mr. BEILENSON and Mr. PENNY.

H.R. 1276: Mr. SANTORUM, and Mr. TAYLOR of North Carolina.

H.R. 1322: Mr. GRAMS.

H.R. 1325: Ms. ENGLISH of Arizona.

H.R. 1419: Mr. SCOTT and Ms. PELOSI.

H.R. 1490: Mr. THOMAS of California, Mr. DORNAN, Mr. BAKER of Louisiana, Mr. THOMAS of Wyoming, Mr. BOEHNER, Mr. PENNY, Mr. BARTON of Texas, Mr. STUMP, and Mr. CALLAHAN.

H.R. 1521: Mr. RICHARDSON, Mr. EVANS, and Mr. MENENDEZ.

H.R. 1555: Mr. PENNY.

H.R. 1640: Mr. RANGEL.

H.R. 1645: Mr. FROST, Ms. EDDIE BERNICE JOHNSON, Mr. RANGEL, Mr. HASTINGS, Mr. SCHIFF, Mr. HUGHES, and Mr. FOGLIETTA.

H.R. 1697: Mr. SPENCE, Mr. PRICE of North Carolina, Mr. JOHNSON of South Dakota, Mr. GILMAN, Mr. FALEOMAVAEGA, Mr. SKELTON, Mr. MCHUGH, Mr. FISH, Mr. POMEROY, Mrs. MEYERS of Kansas, Mr. MEEHAN, and Mr. MCDERMOTT.

H.R. 1714: Mr. GILCHREST and Mr. BYRNE.

H.R. 1747: Mr. SCHIFF, Mr. BARTLETT, Mr. KLUG, and Mr. WILSON.

H.R. 1776: Mr. WAXMAN and Mr. Shays.

H.R. 1788: Mrs. JOHNSON of Connecticut.

H.R. 1796: Mr. PALLONE and Mr. SMITH of New Jersey.

H.R. 1877: Mr. OWENS, Mr. FRANK of Massachusetts, and Mr. MAZZOLI.

H.R. 1887: Mrs. CLAYTON, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. WALKER, Mr. MCHUGH, Mr. FROST, Mr. INGLIS, Mr. DORNAN, Mr. BOEHNER, Mr. EVERETT, and Mr. BEREUTER.

H.R. 1890: Mr. PASTOR, Mr. ENGEL, Mr. WATT, Mr. NADLER, Ms. NORTON, Mrs. BENTLEY, Mr. STOKES, Mr. PORTER, Mr. PAYNE of New Jersey, Ms. DELAURO, Mr. WALSH, Mr. HINCHEY, and Mr. FISH.

H.R. 1897: Mrs. MORELLA, Mr. APPLEGATE, Mr. HINCHEY, Mr. TAUZIN, Mr. CHAPMAN, Mr. FROST, and Ms. ROYBAL-ALLARD.

H.R. 1948: Mr. VENTO, Mr. ENGEL, Mr. PETERSON of Minnesota, Mr. BEILENSON, Mr. FILNER, Mr. BLACKWELL, and Mr. DEUTSCH.

H.R. 1973: Mr. TORKILDSEN.

H.R. 1996: Mr. MILLER of California and Ms. PELOSI.

H.R. 2010: Mrs. CLAYTON, Mr. GLICKMAN, Mr. MATSUI, Mr. NADLER, Mr. PICKLE, Mr. THOMPSON, Mr. WYNN, Mr. STARK, Mr. MINETA, Mr. GEJDENSON, and Ms. EDDIE BERNICE JOHNSON.

H.R. 2034: Mr. KENNEDY and Mr. BISHOP.

H.J. Res. 108: Mr. HUNTER, Mr. SPENCE, Mr. DEUTSCH, Mr. KLINK, and Mr. FIELDS of Louisiana.

H.J. Res. 122: Mr. BALLENGER, Mr. GIBBONS, Mr. GUNDERSON, Mr. LEVY, Mr. KLINK, and Mr. KENNEDY.

H.J. Res. 129: Mr. MACHTLEY.

H.J. Res. 133: Ms. ENGLISH of Arizona, Mr. POMEROY, Mr. HOLDEN, Mr. RAHALL, and Mr. STRICKLAND.

H.J. Res. 142: Mr. KASICH, Mr. MOAKLEY, and Mr. STUDDS.

H.J. Res. 165: Mr. FILNER, Mr. WELDON, Mr. WALSH, Mr. SANDERS, Mr. GEKAS, Mr. QUINN, Mr. SCHIFF, Mr. HOYER, Mr. FISH, and Mrs. MEYERS of Kansas.

H.J. Res. 178: Mr. VOLKMER, Mr. DIXON, Mr. BOEHLERT, Mr. ROTH, Mr. FLAKE, Ms. ROYBAL-ALLARD, and Mr. FISH.

H. Con. Res. 6: Mr. RIDGE, and Mr. JOHNSTON of Florida.

H. Con. Res. 15: Mr. VENTO and Mr. DICKS.

H. Con. Res. 24: Mr. BECERRA.

H. Con. Res. 66: Ms. ESHOO, Mr. SCHIFF, Mr. TUCKER, Mr. VENTO, and Mr. BERMAN.

H. Con. Res. 80: Mr. WASHINGTON, Mr. MCNULTY, Mr. EWING, Mr. BARRETT of Wisconsin, Mr. HINCHEY, Ms. KAPTUR, Mr. HORN, Mr. VENTO, and Mrs. CLAYTON.

H. Con. Res. 83: Mr. SOLOMON, Mr. BATEMAN, Mr. LEVY, Mr. KIM, Mr. WELDON, Mr. FISH, Mr. BARTON of Texas, and Mr. EMERSON.

H. Con. Res. 95: Mr. PETERSON of Florida, and Mr. KANJORSKI.

H. Res. 40: Ms. KAPTUR and Mr. RUSH.

H. Res. 128: Mr. HINCHEY, Miss COLLINS of Michigan, Mr. RANGEL, Mr. MFUME, Mr. HASTINGS, Mrs. CLAYTON, Mr. EDWARDS of California, Mr. MCCURDY, Mr. FOGLIETTA, Ms. MCKINNEY, Ms. MEEK, Mr. SCHIFF, Mr. STARK, Mr. GEJDENSON and Mr. MCCLOSKEY.

H. Res. 146: Mr. SUNDQUIST, Mr. ROTH, and Ms. FURSE.

H. Res. 148: Mr. PETERSON of Minnesota, Mr. STUPAK, Mr. JACOBS, Mr. KLUG, Ms. DUNN, Mr. GOSS, Mr. SHAYS, and Mr. PETE GEREN.

H. Res. 154: Mr. FISH.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

34. The SPEAKER presented a petition of the city council of Seattle, WA relative to elimination of discrimination against gays and lesbians in the military; which was referred to the Committee on Armed Services.