

have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

“(D) The term ‘passive system’ includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

“(E) The term ‘residential energy conservation measure’ means—

“(i) caulking and weatherstripping of all exterior doors and windows;

“(ii) furnace efficiency modifications limited to—

“(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

“(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

“(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

“(iii) clock thermostats;

“(iv) ceiling, attic, wall, and floor insulation;

“(v) water heater insulation;

“(vi) storm windows and doors;

“(vii) heat pumps; and

“(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

“(7) A loan may not be guaranteed under this subsection after December 31, 1995.”

(b) PURCHASE OR CONSTRUCTION WITH ENERGY EFFICIENCY IMPROVEMENTS.—(1) Section 3710(a)(7) of such title is amended to read as follows:

“(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran’s home through energy efficiency improvements, as provided in subsection (d).”

(2) Section 3710(a) of such title is further amended by adding after paragraph (9) the following:

“(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).”

(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

(1) the number of mortgages guaranteed under such section;

(2) the average amount of money added to the mortgage to finance energy efficiency features;

(3) the types of energy efficiency features obtained with mortgages under such section; and

(4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.

#### SEC. 10. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)— (A) by striking “the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for” and inserting “applicable to”; and

(B) by striking all that follows “(12 U.S.C. 1709(b))” and inserting a period; and

(2) by adding at the end the following:

“(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

“(i) agreed upon by the veteran and the mortgagee; or

“(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

“(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

“(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

“(D) This paragraph shall expire on December 31, 1995.”

(b) REPORT.—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

(2) a comparison of the negotiated interest rates being charged under paragraph 4 of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the inter-

est portion would have been under the interest rate established under section 3703(c)(1) of such title; and

(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.

#### SEC. 11. ELIGIBILITY FOR FLAGS AND GRAVE MARKERS.

(a) FLAGS.—Section 2301(a) of title 38, United States Code, is amended to read as follows:

“(a) The Secretary shall furnish a flag to drape the casket of each—

“(1) deceased veteran who—

“(A) was a veteran of any war, or of service after January 31, 1955;

“(B) had served at least one enlistment; or

“(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

“(2) deceased individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.”

(b) HEADSTONES OR MARKERS.—Section 2306(a) of title 38, United States Code, is amended by adding at the end thereof the following:

“(5) Any individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.”

#### SEC. 12. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out “3102” and inserting in lieu thereof “5302”.

On motion of Mr. MONTGOMERY, said Senate amendment to the title of the bill was agreed to.

A motion to reconsider the votes whereby said Senate amendment to the text was agreed to with an amendment and the amendment to the title was agreed to was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said amendments.

#### ¶121.70 VETERANS REEMPLOYMENT RIGHTS

On motion of Mr. MONTGOMERY, by unanimous consent, the bill (H.R. 1578) to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services; together with the amendments of the Senate thereto, was taken from the Speaker’s table.

On motion of Mr. MONTGOMERY, said Senate amendment to the text was agreed to with the following amendment:

In lieu of the matter proposed to be inserted by the amendment made by the Senate, insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Uniformed Services Employment and Reemployment Rights Act of 1992”.

#### SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

**“CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

**“SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS**

- “Sec.  
 “4301. Purposes; sense of Congress.  
 “4302. Relation to other law and plans or agreements.  
 “4303. Definitions.  
 “4304. Character of service.

**“SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS**

- “4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.  
 “4322. Reemployment rights of persons who serve in the uniformed services.  
 “4323. Reemployment positions.  
 “4324. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.  
 “4325. Employee pension benefit plans.

**“SUBCHAPTER III—PROCEDURES FOR ASSISTANCE AND ENFORCEMENT**

- “4331. Assistance in obtaining employment or reemployment; assistance in asserting claims with respect to State or local government or private employers.  
 “4332. Assistance in obtaining employment or reemployment by the Federal Government.  
 “4333. Enforcement of employment or reemployment rights with the Federal Government.  
 “4334. Enforcement of employment or reemployment rights with a State or private employer.

**“SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS**

- “4341. Conduct of investigation; subpoenas.

**“SUBCHAPTER V—MISCELLANEOUS PROVISIONS**

- “4351. Regulations.  
 “4352. Reports.  
 “4353. Outreach.

**“SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS**

**“§ 4301. Purposes; sense of Congress**

“(a) The purposes of this chapter are—  
 “(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

“(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

“(3) to prohibit discrimination against persons because of their service in the uniformed services.

“(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the reemployment practices provided for in this chapter.

**“§ 4302. Relation to other law and plans or agreements**

“(a) Nothing in this chapter shall supersede, nullify, or diminish any Federal or State law (including any local law or ordinance) or any practice, policy, agreement, plan, or other matter provided by an employer which establishes rights or benefits which are greater than or in addition to those provided in this chapter.

“(b) This chapter supersedes State laws (including any local law or ordinance), em-

ployer practices, policies, agreements, and plans, and other matters that reduce, limit, or eliminate in any manner rights or benefits provided by this chapter, including the establishment of additional prerequisites to the exercise of such rights.

**“§ 4303. Definitions**

“For the purposes of this chapter:

“(1) The term ‘Attorney General’ means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

“(2) The term ‘benefit’, ‘benefit of employment’, or ‘rights and benefits’ means any aspect of the employment relationship, other than wages or salary for work performed, provided by contract or employer practice or custom, that offers advantage, profit, privilege, gain, status, account, or interest and includes, but is not limited to, pension plans and payments, insurance coverage and awards, employee stock ownership plans, bonuses, severance pay, supplemental unemployment benefits, vacations, and selection of work hours or locations of employment.

“(3)(A) Except as provided in subparagraphs (B) and (C), the term ‘employer’ means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

“(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

“(ii) the Federal Government;

“(iii) a State; and

“(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph.

“(B) In the case of a National Guard technician employed under section 709 of title 32, the term ‘employer’ means the adjutant general of the State in which the technician is employed.

“(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4325.

“(4) The term ‘Federal Government’ includes the executive branch, the judicial branch, and the legislative branch, with the executive branch including—

“(A) any department, administration, agency, commission, board, or independent establishment in, or other part of, the executive branch (including any executive agency as defined in section 105 of title 5);

“(B) the United States Postal Service and the Postal Rate Commission;

“(C) any nonappropriated fund activity of the United States; and

“(D) any corporation wholly owned by the United States.

“(5) The term ‘health plan’ means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

“(6) The term ‘notice’ means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

“(7) The term ‘other than a temporary position’ means a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

“(8) The term ‘qualified’ means having the ability to perform the essential tasks of an employment position.

“(9) The term ‘reasonable efforts’ means actions, including training provided by an employer, that do not create an undue hardship on the employer.

“(10) Notwithstanding section 101 of this title, the term ‘Secretary’ means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

“(11) The term ‘seniority’ means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

“(12) The term ‘service in the uniformed services’ means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

“(13) The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

“(14) The term ‘uniformed services’ means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

**“§ 4304. Character of service**

“A person’s entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

“(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

“(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

“(3) A dismissal of such person permitted under section 1161(a) of title 10.

“(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

**“SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS**

**“§ 4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited**

“(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, service, application for service, or obligation.

“(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person’s membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer’s action, un-

less the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation.

“(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

“(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

**“§ 4322. Reemployment rights of persons who serve in the uniformed services**

“(a) Subject to subsections (b) and (c), any person who is absent from a position of employment (other than a temporary position) by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

“(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person’s employer;

“(2) except as provided in subsection (c) of this section, the cumulative length of the absence and of any previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

“(3) the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (d).

“(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

“(c) Subsection (a) shall apply if such person’s cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

“(1) that is required, beyond five years, to complete an initial period of obligated service;

“(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

“(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned to be necessary for professional development or for completion of skill training or retraining; or

“(4) performed by a member of a uniformed service who is—

“(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10;

“(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

“(C) ordered to active duty (other than for training) in support, as determined by the

Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

“(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

“(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

“(d)(1) Subject to paragraphs (2) and (3), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person’s intent to return to a position of employment with such employer as follows:

“(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

“(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the workplace of the employer; or

“(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

“(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person’s fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

“(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service.

“(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

“(2) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of a period of service in the uniformed services shall report to the person’s employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph) at the end of the period (not to exceed two years) that is necessary for the person to recover from such illness or injury. Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person’s control which make reporting within the time limit specified in this paragraph impossible or unreasonable.

“(3) A person referred to in subparagraphs (A) or (B) of paragraph (1) who fails to report to an employer within the time period referred to in such subparagraph shall be considered to have failed to report for such work on schedule but may be treated by the employer no less favorably than the employer treats other absent employees pursuant to the employer’s established policy or the general practices of the employer relating to employee absences.

“(e) A person who fails to report for employment or reemployment within the time limits specified in subsection (d) does not automatically forfeit such person’s right under subsection (a) but shall be subject to the conduct rules of the employer pertaining

to explanations and discipline with respect to absence from scheduled work.

“(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (d)(1) shall provide to the person’s employer (upon the request of such employer) documentation to establish that—

“(A) the person’s application is timely;

“(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

“(C) the person’s entitlement to the benefits under this chapter has not terminated under section 4304 of this title.

“(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

“(3) The failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A) through (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

“(4) It shall be unlawful for an employer to delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

“(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

“(h) In any determination of a person’s entitlement to protection under this chapter, the timing, frequency, and duration of the person’s training or service or the nature of such training or service (including voluntary service) in the uniformed services shall not be a basis for denying protection of such training or service if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (d) are met.

**“§ 4323. Reemployment positions**

“(a) Subject to subsections (b) and (c), a person entitled to reemployment under section 4322 of this title upon completion of a period of service in the uniformed services shall be promptly reemployed in a position of employment in accordance with the following priority:

“(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

“(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

“(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

“(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

“(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

“(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

“(3) In the case of a person who has a disability incurred during, or as a result of, a period of service in the uniformed services, and if, after reasonable efforts by the employer to accommodate the disability, such person is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service or the position of employment in which such person was employed on the date of the commencement of the service in the uniform services—

“(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

“(B) if not employed under subparagraph (A), in a position which is the nearest approximation in terms of seniority, status, and pay consistent with circumstances of such person’s case.

“(4) In the case of a person who is not qualified to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service or in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason other than disability incurred during, or as a result of, a period of service in the uniformed services and who cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

“(b)(1) An employer is not required to reemploy a person under this chapter if the employer’s circumstances have so changed as to make such reemployment impossible or unreasonable or, in the case of a person entitled to reemployment under subsections (a)(3), (a)(4), and (c)(2)(B), would impose an undue hardship on the operation of the employer.

“(2) In any administrative or judicial proceeding involving an issue of whether (A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer’s circumstances, or (B) any accommodation, training, or effort referred to in subsection (a)(3) would impose an undue hardship on the operation of the business of the employer, the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

“(c)(1) If two or more persons are entitled to reemployment under section 4322 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to be reemployed in that position.

“(2) Any person entitled to reemployment under this section who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

“(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with circumstances of such person’s case.

“(B) In the case of a person who has a disability incurred during, or as a result of, a period of service in the uniform services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person’s case.

**§4324. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service**

“(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

“(b) A person who performs service in the uniformed services is considered to be on furlough or leave of absence while in the uniformed services and is also entitled to such other rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were in effect by contract, policy, or practice, at the commencement of such period of service or were established while such person is performing such service. Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to the preceding sentence.

“(c)(1) A person who performs service in the uniformed services shall, at such person’s request, continue to be covered by any insurance provided by such employer for up to 18 months. Such person may be required to pay the entire cost of any benefit continued pursuant to the preceding sentence, except that in the case of persons ordered to training or service for fewer than 31 days, such person may be required to pay only the employee share, if any, of the cost of such benefit.

“(2) In the case of employer-sponsored health benefits, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a person entitled to participate in these benefits, either under paragraph (1) or upon reinstatement, or in connection with a health or physical condition of any other person who is covered by the benefit by reason of the coverage of such person, if—

“(A) the condition arose before or during that person’s period of training or service in the uniformed services;

“(B) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the benefits; and

“(C) the condition of such person has not been determined by the Secretary of Veterans Affairs to be service-connected.

“(d) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

“(1) if such person’s period of service was 181 days or more, within one year;

“(2) if such person’s period of service was 31 days or more but less than 181 days, within six months; or

“(3) if such person’s period of service was less than 31 days, within a period of time that is equal to the period of service concerned.

“(e) Any person who is absent from or leaves a position (other than a temporary position) in the employ of any employer for voluntary or involuntary service in the uniformed services may utilize, with respect to the employer and during any period of such service, accrued or other leave which the person could have utilized if the person had remained in such position.

**“§ 4325. Employee pension benefit plans**

“(a)(1) In the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

“(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person’s period or periods of service in the uniformed services.

“(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeiture of the person’s accrued benefits and for the purpose of determining the accrual of benefits under the plan.

“(b)(1) An employer reemploying a person under this chapter shall be liable to an employee benefit pension plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan described in this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan may provide (or, if the sponsor does not so provide, shall be allocated to the last employer employing the person before the period described in subsection (a)(2)(B)).

“(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person or employer would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during any continuous period (be-

ginning with the date of reemployment) as the employer and the person may agree.

“(3) For purposes of computing an employer’s liability under paragraph (1) or the employee’s contributions under paragraph (2), the employee’s compensation during the period of service described in subsection (a)(2)(B)—

“(A) shall be computed at the same rate as the employee received from the employer immediately before such period; or

“(B) if the employee’s compensation was not based on a fixed rate, shall be computed on the basis of the employee’s average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

“(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

#### “SUBCHAPTER III—PROCEDURES FOR ASSISTANCE AND ENFORCEMENT

##### “§ 4331. Assistance in obtaining employment or reemployment; assistance in asserting claims with respect to State or local government or private employers

“(a) The Secretary (through the Veterans’ Employment and Training Service) shall provide assistance in obtaining employment or reemployment to any person entitled to rights or benefits under this chapter. The Secretary may use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

“(b) Any person who claims that a private employer or a State or political subdivision thereof has denied or is about to deny such person any right or benefit under this chapter may apply to the Secretary for assistance in asserting that claim.

##### “§ 4332. Assistance in obtaining employment or reemployment by the Federal Government

“(a) Except as provided in subsections (c), (d), and (e), if a person is entitled to be reemployed under section 4322 by the Federal Government, such person shall be reemployed in a position of employment as described in sections 4323 and 4324.

“(b) Any person who claims that the Federal Government, as employer, has denied or is about to deny such person any right or benefit under this chapter may apply to the Secretary for assistance in asserting that claim.

“(c) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, an agency in the executive branch, and the Director of the Office of Personnel Management determines that—

“(1) such employer no longer exists and its functions have not been transferred to another part of the executive branch; or

“(2) it is not feasible for such employer to reemploy such person.

the Director shall identify an alternative position of like seniority, status, and pay for which such person is qualified in another part of the executive branch, and the Director shall cause employment in such position to be offered to such person.

“(d) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that—

“(1) it is not feasible for such employer to reemploy such person; and

“(2) such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(c) of title 5,

such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch on the same basis as described in subsection (c).

“(e) If the adjutant general of a State determines that it is not feasible to reemploy a person who was a National Guard technician employed under section 709 of title 32, and such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(d) of title 5, such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch of the Federal Government on the same basis as described in subsection (c).

##### “§ 4333. Enforcement of employment or reemployment rights with the Federal Government

“(a) Any person who claims that—

“(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by the Federal Government; and

“(2)(A) such employer has failed or refused to comply with the provisions of this chapter; or

“(B) the Office of Personnel Management has failed or refused to comply with the provisions of this chapter,

may file a complaint with the Secretary, and the Secretary shall investigate such complaint. Subsection (a) of section 4341 shall be applicable to such investigation but not subsections (b) and (c) of such section.

“(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint. Before the receipt of a written complaint, the Secretary shall, upon request, provide advice or technical assistance to the potential claimant and, if the Secretary determines it appropriate, to such claimant’s employer.

“(c) If the Secretary, after investigation, is reasonably satisfied that such a failure to comply with the provisions of this chapter has occurred, if efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation before the Merit Systems Protection Board, the Secretary shall refer the case to the Office of the Special Counsel. If the Special Counsel is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Special Counsel shall appear and act as attorney for the claimant in filing an appeal to the Merit Systems Protection Board and in pursuing that appeal.

“(d) If the Special Counsel declines to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Special Counsel for representation under this section, such person may be represented before the Merit Systems Protection Board by counsel of the person’s choice.

“(e)(1) If the Merit Systems Protection Board concludes that the Federal Government, as employer, has failed or refused to comply with the provisions of this chapter or that the Director of the Office of Personnel Management has not met an obligation set forth in subsection (c), (d), or (e) of section

4332, the Board shall enter an order specifically requiring the employing agency or the Director to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of the employing agency’s or the Director’s unlawful action.

“(2) Any such compensation shall be in addition to and shall not be deemed to diminish any of the other rights or benefits provided for by this chapter.

“(f)(1) A claimant under this chapter may petition the United States Court of Appeals for the Federal Circuit to review a decision of the Merit Systems Protection Board denying such claimant the relief sought, in whole or in part, subject to the conditions and in accordance with the procedures set forth in section 7703 of title 5.

“(2) The Secretary and the Special Counsel shall not represent persons with respect to review of decisions of the Merit Systems Protection Board under this chapter in the United States Court of Appeals for the Federal Circuit or the Supreme Court.

“(3) If a person seeks such judicial review, or in any case in which a person is involved in the Board’s decision being appealed by another party, such person may be represented by counsel of the person’s choice.

##### “§ 4334. Enforcement of employment or reemployment rights with a State or private employer

“(a) A person who claims that—

“(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by a State or political subdivision thereof or a private employer; and

“(2) such employer or potential employer has failed or refused to comply with the provisions of this chapter,

may file a complaint with the Secretary, and such complaint shall be investigated under the provisions of subchapter IV.

“(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint. Before the receipt of a written complaint, the Secretary shall, upon request, provide advice or technical assistance to the potential claimant and, if the Secretary determines it appropriate, to such claimant’s employer.

“(c) If the Secretary, after investigation, is reasonably satisfied that the employer has failed to comply with the provisions of this chapter, if efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation, the Secretary shall refer the case to the Attorney General. If the Attorney General is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Attorney General shall appear and act as attorney for the claimant in the filing of a complaint and other appropriate motions and pleadings and the prosecution thereof.

“(d)(1)(A) The district courts of the United States may—

“(i) require the employer to comply with the provisions of this chapter;

“(ii) require the State or private employer, as the case may be, to compensate the person for any loss of wages or benefits suffered by reason of such employer’s failure to comply with the provisions of this chapter; and

“(iii) require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer’s failure to comply with the provisions of this chapter was willful.

“(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addi-

tion to, and shall not be deemed to diminish, any of the benefits provided for in the provisions of this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights or benefits under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person described in subsection (a) who obtained private counsel for such action or proceeding, the court, in its discretion, may award any such person who prevails in such action or proceeding a reasonable attorney's fee, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) If the Attorney General refuses to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Attorney General for representation under this section, such person may be represented before the district court by counsel of the person's choice.

"(6) In any action under this chapter, only the employer shall be deemed a necessary party respondent.

"(7) No State statute of limitations shall apply to any proceedings under this chapter.

"(8) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

#### "SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS

##### "§ 4341. Conduct of investigation; subpoenas

"(a) In carrying out investigations under this chapter, the Secretary's duly authorized representatives shall at all reasonable times have access to, for the purpose of examination, and the right to copy and receive, any documents of any person or employer.

"(b) In carrying out investigations under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply (other than with respect to an investigation carried out under section 4333(a)) to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the Secretary's subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter (other than an investigation carried out under section 4333(a)). The district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court (other than with respect to an investigation carried out under section 4333(a)).

#### "SUBCHAPTER V—MISCELLANEOUS PROVISIONS

##### "§ 4351. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to the Federal Government as employer. Such regulations shall be consistent with the regulations pertaining to the States and private employers, except that employees of the Federal Government may be given greater or additional rights. Nothing in this subsection constitutes authority for the Director to prescribe any matter for which any regulation may be prescribed under paragraph (2).

"(2) Regulations may be prescribed—

"(A) by the Merit Systems Protection Board to carry out its responsibilities under this chapter; and

"(B) by the Office of Special Counsel to carry out its responsibilities under this chapter.

##### "§ 4352. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4333(c) and no later than February 1, 1994, and each February 1 thereafter, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4334(c) or 4333(c), respectively, during such fiscal year.

"(3) The number of pleadings filed by the Attorney General pursuant to section 4334(c) during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

##### "§ 4353. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter."

#### SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph;

"(G) to benefits under chapter 43 of this title."

#### SEC. 4. CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

#### "43. Employment and reemployment rights of persons who serve in the uniformed services ..... 4301".

(b) AMENDMENT TO TITLE 5.—(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 2023" and inserting in lieu thereof "chapter 43".

(2) Subchapter II of chapter 35 of such title is repealed.

(3) The table of sections for chapter 35 of such title is amended by striking out the items relating to subchapter II.

(c) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 2021" and inserting in lieu thereof "chapter 43".

(d) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

#### SEC. 5. TECHNICAL AMENDMENT.

Section 9(d) of Public Law 102-16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

#### SEC. 6. TRANSITION RULES AND EFFECTIVE DATES.

(a) APPLICABILITY OF CHAPTER 43 TO PERSONS COMMENCING SERVICE AFTER DATE OF ENACTMENT.—

(1) AFTER 90 DAYS AFTER SUCH DATE.—The provisions of chapter 43 of title 38, United States Code (as amended by section 2(a) of this Act), and section 5303A(b)(3)(G) of such title (as added by section 3 of this Act) shall apply to persons who commence periods of service in the uniformed services after the 90-day period beginning on the date of the enactment of this Act.

(2) WITHIN 90 DAYS AFTER SUCH DATE.—Any person who commences the performance of a period of service in the uniformed services during the 90-day period referred to in paragraph (1) shall be covered during such 90-day period by the provisions of chapter 43 of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(b) APPLICABILITY OF CHAPTER 43 TO PERSONS PERFORMING ACTIVE DUTY ON DATE OF ENACTMENT.—

(1) IN GENERAL.—Any person who is performing service in the uniformed services on the date of the enactment of this Act shall be covered during the 90-day period beginning on such date by the provisions of chapter 43 of title 38, United States Code, in effect on the day before such date.

(2) CONTINUING SERVICE.—(A) Any person whose service in the uniformed services described under paragraph (1) continues after the 90-day period referred to in that paragraph shall be covered during the period of such service after that 90-day period by the provisions of chapter 43 of title 38, United States Code, as amended by section 2(a) of this Act, and section 5303A(b)(3)(G) of such title (as added by section 3 of this Act).

(B)(i) Except as provided in clause (ii), for the purposes of section 4322(a)(1) of such title (as added by section 2(a) of this Act), a person referred to in subparagraph (A) shall be deemed to have satisfied the notification requirement referred to in such section.

(ii) Any person referred to in subparagraph (A) who was subject to the requirement under section 2024(d) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), of requesting a leave of absence with respect to the service described in that subparagraph from the person's employer shall be deemed to have met the requirement of notifying the

person's employer under such section 4322(a)(1) if the person requested the leave of absence.

(C) For the purposes of calculating the cumulative length of service performed by a person referred to in this paragraph under section 4322(a)(2) of such title (as so added), any service in the uniformed services (other than service referred to in section 4322(c) of such title (as so added)) shall be included.

(3) ALTERNATIVE REPORTING REQUIREMENT.—A person referred to in paragraph (1) shall report to work in accordance with the provisions of section 2024(d) of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(c) SPECIAL RULE FOR APPLICABILITY OF INSURANCE PROVISIONS.—Notwithstanding subsections (a)(2) and (b)(2), a person referred to in such subsections shall be covered by the provisions of section 2021(b)(1) of title 38, United States Code (relating to insurance benefits), in effect on the day before the date of the enactment of this Act until the person has received notice of the provisions of section 4324(c) of such title (as added by section 2(a) of this Act) and has had a reasonable opportunity to elect to be covered by the provisions of such section 4324(c) (as so added). If such an election is made, insurance coverage may remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment.

(d) REEMPLOYMENT OF DISABLED PERSONS.—

(1) IN GENERAL.—Section 4323(a)(3) of chapter 43 of title 38, United States Code (as added by section 2(a) of this Act) shall apply to reemployments initiated on or after August 1, 1990.

(2) REPEAL.—(A) Effective as of August 1, 1990, section 2027 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), is repealed.

(B) Effective as of August 1, 1990, the table of sections at the beginning of chapter 43 of such title (as in effect on the day before the date of the enactment of this Act) is amended by striking out the item relating to section 2027.

(e) DISCRIMINATION.—The provisions of section 4321(c) of title 38, United States Code (as added by section 2(a) of this Act) and the provisions of subchapters III and IV of such title (as so added), shall become effective on the date of the enactment of this Act.

(f) EMPLOYEE PENSION BENEFIT PLAN.—Section 4325 of title 38, United States Code (as amended by section 2(a) of this Act), shall apply to reemployment initiated on or after August 1, 1990.

(g) SAVINGS PROVISION.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not effect rights, benefits, and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of the pertinent provision of this Act.

(h) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(12) of title 38, United States Code (as added by section 2(a) of this Act).

On motion of Mr. MONTGOMERY, said Senate amendment to the title of the bill was agreed to.

A motion to reconsider the votes whereby said Senate amendment to the text was agreed to with an amendment and the amendment to the title was agreed to was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said amendment.

#### ¶121.71 THOMAS PAINE MEMORIAL

On motion of Mr. GEJDENSON, by unanimous consent, the Committee on House Administration was discharged from further consideration of the bill (H.R. 6165) to amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.

When said bill was considered, read twice, ordered to be engrossed and read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby the bill was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

#### ¶121.72 SITUATION IN SUDAN

On motion of Mr. GEJDENSON, by unanimous consent, the Committee on Foreign Affairs was discharged from further consideration of the following concurrent resolution of the Senate (S. Con. Res. 140):

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and

other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system, to ameliorate the humanitarian situation in Sudan.

When said concurrent resolution was considered and agreed to.

A motion to reconsider the vote whereby said concurrent resolution was agreed to was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

#### ¶121.73 U.S. PARTICIPATION—CASCADIA CORRIDOR

On motion of Mr. GEJDENSON, by unanimous consent, the Committee on Foreign Affairs was discharged from further consideration of the following concurrent resolution (H. Con. Res. 383):

*Resolved by the House of Representatives (the Senate concurring),*

SECTION 1. It is the sense of Congress that:

(a) CASCADIA CORRIDOR COMMISSION.—The United States should continue negotiations with the Government of Canada and State, provincial, and local governments in the urbanized Cascadia corridor along Interstate 5/ Highway 99 from Vancouver, British Columbia (including Vancouver Island), to Eugene, Oregon, in order to establish a commission to—

(1) act as a forum to coordinate consideration of regional issues in the Cascadia area by representatives from the private sector, nonprofit organizations, and local, State, provincial, regional, and national governments;

(2) develop a strategy for environmentally sound economic development in the Cascadia region which includes consideration of environmental issues, urban development, transportation, communications, and education; and

(3) submit a plan, developed by the commission and incorporating such strategy, to the Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

(b) ADVISORY COMMISSION.—The commission should be authorized to function only in