

¶107.15 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. HUNTER:

In section 575, at the end of subsection (c) of section 654 of title 10, United States Code, as proposed to be added by subsection (a) of that section (page 203, after line 15), insert the following new paragraph:

“(3) As part of the process for enlistment or appointment of a person as a member of the armed forces, the Secretary concerned shall, before the enlistment or appointment, ask the person (1) whether the person is a homosexual or bisexual, and (2) whether the person engages in homosexual acts or intends to engage in, or has a propensity to engage in, homosexual acts.”

In section 575(d), strike out “sense of Congress that—” (page 205, beginning on line 18) and all that follows through “(2) the Secretary” (page 206, line 5) and insert in lieu thereof “sense of Congress that the Secretary.”

It was decided in the { Yeas 144 negative } { Nays 291

¶107.16 [Roll No. 461] AYES—144

- Allard, Andrews (TX), Archer, Armev, Bachus (AL), Baesler, Baker (CA), Baker (LA), Barcia, Barlow, Barrett (NE), Bartlett, Barton, Bateman, Bentley, Bereuter, Bevill, Bilirakis, Bilev, Boehner, Bonilla, Brewster, Browder, Bunning, Burton, Buyer, Callahan, Camp, Canady, Coble, Collins (GA), Combest, Cooper, Cox, Cramer, Crane, Crapo, Cunningham, de la Garza, DeLay, Derrick, Diaz-Balart, Dickey, Doollittle, Dornan, Duncan, Emerson, English (OK), Everett, Ewing, Fawell, Fields (TX), Franks (CT), Gallegly, Gekas, Geren, Goodlatte, Goss, Grams, Hall (OH), Hall (TX), Hancock, Hansen, Hastert, Hefley, Herger, Hoekstra, Holden, Hunter, Hutchinson, Hutto, Hyde, Inglis, Inhofe, Istook, Johnson, Sam, King, Kingston, Knollenberg, Lancaster, Levy, Lewis (FL), Lightfoot, Linder, Livingston, Manzullo, McCandless, McCollum, McHugh, McInnis, McKeon, McMillan, Mica, Miller (FL), Moorhead, Myers, Ortiz, Packard, Parker, Paxon, Petri, Pombo, Portman, Quillen, Quinn, Rahall, Ravenel, Roberts, Rogers, Ros-Lehtinen, Roth, Royce, Sarpaluis, Schaefer, Sensenbrenner, Shaw, Skeen, Smith (NJ), Smith (OR), Smith (TX), Snowe, Solomon, Spence, Stearns, Stenholm, Stump, Sundquist, Talent, Tanner, Tauzin, Taylor (MS), Taylor (NC), Tejeda, Thomas (WY), Valentine, Volkmer, Vucanovich, Walker, Wilson, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NOES—291

- Abercrombie, Ackerman, Andrews (ME), Andrews (NJ), Applegate, Bacchus (FL), Ballenger, Barca, Barrett (WI), Becerra, Beilenson, Berman, Bilbray, Bishop, Blackwell, Blute, Boehlert, Bonior, Borski, Boucher, Brooks, Brown (CA), Brown (FL), Brown (OH), Bryant, Byrne, Calvert, Cantwell, Cardin, Carr, Castle, Chapman, Clay, Clayton, Clement, Clinger, Clyburn, Coleman, Collins (IL), Collins (MI), Condit, Conyers

- Coppersmith, Costello, Coyne, Danner, Darden, DeLugo (VI), Deal, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dingell, Dixon, Dooley, Dreier, Dunn, Durbin, Edwards (CA), Edwards (TX), Engel, English (AZ), Eshoo, Evans, Faleomavaega (AS), Farr, Fazio, Fields (LA), Filner, Fingerhut, Fish, Flake, Foglietta, Ford (MI), Ford (TN), Fowler, Frank (MA), Franks (NJ), Frost, Gulse, Gallo, Gejdenson, Gephardt, Gibbons, Gilchrist, Gillmor, Gilman, Gingrich, Glickman, Gonzalez, Goodling, Gordon, Grandy, Green, Greenwood, Gunderson, Gutierrez, Hamburg, Hamilton, Harman, Hastings, Hayes, Hefner, Hilliard, Hinchey, Hoagland, Hobson, Hochbrueckner, Hoke, Horn, Houghton, Hoyer, Huffington, Hughes, Inslee, Jacobs, Jefferson, Johnson (CT), Johnson (GA), Johnson (SD), Johnson, E. B., Johnston, Kanjorski, Kaptur, Kasich, Kennedy, Kennelly, Kildee, Kim, Kleczka, Klein, Klink, Klug, Kolbe, Kopetski, Kreidler, Kyl, LaFalce, Lambert, Lantos, LaRocco, Laughlin, Lazio, Leach, Lehman, Levin, Lewis (CA), Lewis (GA), Lipinski, Lloyd, Long, Lowey, Machtley, Maloney, Mann, Mantol, Margolies-Mezvinsky, Markey, Martinez, Matsui, Mazzoli, McCloskey, McCrery, McCurdy, McDermott, McHale, McKinney, McNulty, McNutty, Meehan, Meek, Menendez, Meyers, Mfume, Michel, Miller (CA), Mineta, Minge, Mink, Moakley, Molinari, Mollohan, Montgomery, Moran, Morella, Murphy, Murtha, Nadler, Natcher, Neal (MA), Neal (NC), Norton (DC), Nussle, Oberstar, Obey, Orton, Owens, Oxley, Pallone, Pastor, Payne (NJ), Payne (VA), Pelosi, Penny, Peterson (FL), Peterson (MN), Pickett, Pickle, Pomeroy, Porter, Poshard, Price (NC), Pryce (OH), Ramstad, Rangel, Reed, Regula, Reynolds, Richardson, Ridge, Roemer, Rohrabacher, Romero-Barcelo (PR), Rose, Rosenkowsky, Roukema, Rowland, Roybal-Allard, Rush, Sabo, Sanders, Sangmeister, Santorum, Sawyer, Saxton, Schenk, Schiff, Schroeder, Schumer, Scott, Serrano, Sharp, Shays, Shepherd, Shuster, Sisisky, Skaggs, Skelton, Slattery, Slaughter, Smith (IA), Smith (MI), Spratt, Stark, Stokes, Strickland, Studds, Stupak, Swett, Swift, Synar, Thomas (CA), Thompson, Thornton, Thurman, Torkildsen, Torres, Torricelli, Towns, Traficant, Tucker, Unsoeld, Upton, Velazquez, Vento, Visclosky, Walsh, Washington, Waters, Watt, Waxman, Weldon, Wheat, Whitten, Williams, Wise, Woolsey, Wyden, Wynn, Yates

NOT VOTING—3

- McDade, Olver, Underwood (GU)

So the amendment was not agreed to. After some further time,

¶107.17 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. SKELTON:

Strike out section 575 (page 198, line 7, through page 206, line 11) and insert in lieu thereof the following:

SEC. 575. POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

(a) CODIFICATION.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

“§654. Policy concerning homosexuality in the armed forces

“(a) FINDINGS.—Congress makes the following findings:

“(1) Section 8 of article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

“(2) There is no constitutional right to serve in the armed forces.

“(3) Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces.

“(4) The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise.

“(5) The conduct of military operations requires members of the armed forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

“(6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

“(7) One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.

“(8) Military life is fundamentally different from civilian life in that—

“(A) the extraordinary responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

“(B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

“(9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the armed forces.

“(10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

“(11) The pervasive application of the standards of conduct is necessary because members of the armed forces must be ready at all times for worldwide deployment to a combat environment.

“(12) The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the armed forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

“(13) The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in

the unique circumstances of military service.

"(14) The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

"(15) The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

"(b) POLICY.—A member of the armed forces shall be separated from the armed forces under regulations prescribed by the Secretary of Defense if one or more of the following findings is made and approved in accordance with procedures set forth in such regulations:

"(1) That the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are further findings, made and approved in accordance with procedures set forth in such regulations, that the member has demonstrated that—

"(A) such conduct is a departure from the member's usual and customary behavior;

"(B) such conduct, under all the circumstances, is unlikely to recur;

"(C) such conduct was not accomplished by use of force, coercion, or intimidation;

"(D) under the particular circumstances of the case, the member's continued presence in the armed forces is consistent with the interests of the armed forces in proper discipline, good order, and morale; and

"(E) the member does not have a propensity or intent to engage in homosexual acts.

"(2) That the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

"(3) That the member has married or attempted to marry a person known to be of the same biological sex.

"(c) ENTRY STANDARDS AND DOCUMENTS.—(1) The Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth in subsection (b).

"(2) The documents used to effectuate the enlistment or appointment of a person as a member of the armed forces shall set forth the provisions of subsection (b).

"(d) REQUIRED BRIEFINGS.—The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).

"(e) RULE OF CONSTRUCTION.—Nothing in subsection (b) shall be construed to require that a member of the armed forces be processed for separation from the armed forces when a determination is made in accordance with regulations prescribed by the Secretary of Defense that—

"(1) the member engaged in conduct or made statements for the purpose of avoiding or terminating military service; and

"(2) separation of the member would not be in the best interest of the armed forces.

"(f) DEFINITIONS.—In this section:

"(1) The term 'homosexual' means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms 'gay' and 'lesbian'.

"(2) The term 'bisexual' means a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

"(3) The term 'homosexual act' means—

"(A) any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and

"(B) any bodily contact which a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in subparagraph (A)."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"654. Policy concerning homosexuality in the armed forces."

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall revise Department of Defense regulations, and issue such new regulations as may be necessary, to implement section 654 of title 10, United States Code, as added by subsection (a).

(c) SAVINGS PROVISION.—Nothing in this section or section 654 of title 10, United States Code, as added by subsection (a) may be construed to invalidate any inquiry, investigation, administrative action or proceeding, court-martial, or judicial proceeding conducted before the effective date of regulations issued by the Secretary of Defense to implement such section 654.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the suspension of questioning concerning homosexuality as part of the processing of individuals for accession into the Armed Forces under the interim policy of January 29, 1993, should be continued, but the Secretary of Defense may reinstate that questioning with such questions or such revised questions as he considers appropriate if the Secretary determines that it is necessary to do so in order to effectuate the policy set forth in section 654 of title 10, United States Code, as added by subsection (a); and

(2) the Secretary of Defense should consider issuing guidance governing the circumstances under which members of the Armed Forces questioned about homosexuality for administrative purposes should be afforded warnings similar to the warnings under section 831(b) of title 10, United States Code (article 31(b) of the Uniform Code of Military Justice).

It was decided in the affirmative { Yeas 301 Nays 134

107.18

[Roll No. 462]
AYES—301

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Army
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray

Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr

Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza

Deal
DeLay
Derrick
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Faleomavaega (AS)
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur

Kasich
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kopetski
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manton
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (NC)
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman

Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpaluis
Sawyer
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Sweet
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—134

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Blackwell
Boehert
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay

Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio

Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gedden
Gilman
Gonzalez
Gunderson
Gutierrez
Hamburg
Harman
Hastings
Hilliard
Hinche