H. Con. Res. 166: Mr. MENENDEZ, Mr. RIDGE, Mr. SHAW, Mr. BARTLETT of Maryland, and Mr. SANTORUM.

H. Con. Res. 199: Mr. RUSH.

H. Con. Res. 262: Mr. BATEMAN, Mr. BACHUS of Alabama, Mr. MILLER of California, Ms. DUNN, Mr. LANCASTER, Mr. KYL, Mr. EVERETT, Ms. SLAUGHTER, Mr. HOCHBRUECKNER, Mr. GUNDERSON, Mr. PETRI, Mr. BONIOR, Mr. PAYNE of Virginia, Mr. COBLE, Mr. BROWDER, Mr. GENE GEREN of Texas, and Mr. MILLER of Florida.

H. Con. Res. 268: Mr. SOLOMON, Mr. GINGRICH, and Mrs. MEYERS of Kansas.

H. Con. Res. 269: Mr. HYDE, Mrs. JOHNSON of Connecticut, and Mr. SMITH of New Jersey.

H. Con. Res. 270: Mr. ROGERS.

H. Con. Res. 276: Mr. SMITH of Texas, Mr. GUNDERSON, Mr. QUINN, Mr. SYNAR, Mr. GONZALEZ, Mr. WHEAT, Mr. MANN, Mr. SANGMEISTER, Mr. PARKER, Mr. SOLOMON, Mr. BREWSTER, Mr. SPRATT, Mr. DREIER, Mr. POSHARD, Mr. ZIMMER, Ms. ENGLISH of Arizona, Mr. LAZIO, Mr. VOLKMER, Mr. FILNER, Mr. MCCLOSKEY, Mr. CRAMER, Mr. GLICKMAN, Mr. MCDERMOTT, Mr. WISE, Mr. HINCHEY, Mr. WILLIAMS, Mr. COLEMAN, Mr. PETER GEREN of Texas, Mr. PAYNE of Virginia, Mr. FARR, Mrs. UNSOELD, Mr. GOODLING, and Mr. TAYLOR of Mississippi.

H. Con. Res. 281: Mr. EMERSON, Mr. LIGHTFOOT, Mr. RANGEL, Mr. SAXTON, Ms. ROS-LEHTINEN, Mr. COOPER, Mr. SCHUMER, Mr. YATES, Mr. SCHIFF, and Mrs. MEEK of Florida.

H. Con. Res. 282: Mr. BLILEY, Mr. VALENTINE, Mr. GINGRICH, and Mr. WALSH.

H. Res. 402: Mr. SARPALIUS, Mr. JEFFERSON, Mrs. MEYERS of Kansas, Mr. FROST, and Mr. HASTINGS.

H. Res. 424: Mr. LIVINGSTON, Mr. BARTLETT of Maryland, and Mrs. BENTLEY.

H. Res. 510: Mr. BATEMAN, Mr. CASTLE, Mr. DEUTSCH, Mr. ENGEL, Ms. FURSE, Mr. GUNDERSON, Mr. SCHUMER, Mr. SHAW, Mr. SWETT, and Mr. TALENT.

¶105.28 PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

125. By the SPEAKER: Petition of office of the attorney general, Jackson, MS, relative to State health care fraud control units; to the Committee on Energy and Commerce.

126. Also, petition of office of the attorney general, Carson City, NV, relative to State health care fraud control units; to the Committee on Energy and Commerce.

127. Also, petition of office of the attorney general, Wilmington, DE, relative to State health care fraud control units; to the Committee on Energy and Commerce.

TUESDAY, SEPTEMBER 13, 1994 (106)

¶106.1 DESIGNATION OF SPEAKER PRO TEMPORE

The House was called to order by the SPEAKER pro tempore, Mr. MONTGOMERY, at 10:30 a.m., who laid before the House the following communication:

WASHINGTON, DC,
September 13, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

Whereupon, pursuant to the order of the House of Friday, February 11, 1994, and Friday, June 10, 1994, Members were recognized for ''morning hour'' debates.

¶106.2 RECESS—11:10 A.M.

The SPEAKER pro tempore, Mr. BACCHUS, pursuant to clause 12 of rule I, declared the House in recess at 11 o'clock and 10 minutes until 12 o'clock noon.

¶106.3 AFTER RECESS—12:00 NOON

The SPEAKER called the House to order.

¶106.4 APPROVAL OF THE JOURNAL

The SPEAKER announced he had examined and approved the Journal of the proceedings of Monday, September 12, 1994.

Mr. KYL, pursuant to clause 1, rule I, objected to the Chair's approval of the Journal.

The question being put, viva voce,

Will the House agree to the Chair's approval of said Journal?

The SPEAKER announced that the nays had it.

Mr. KYL objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 214 / Nays ..... 141 }

¶106.5 [Roll No. 420]

YEAS—214

Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Beilenson
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Byrne
Callahan
Cantwell
Carr
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (IL)
Combest
Conyers
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hughes
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mineta
Minge
Moakley
Montgomery
Murtha
Myers
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Rose
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swift
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wise
Woolsey
Wyden

NAYS—141

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Brown (CA)
Bunning
Burton
Buyer
Calvert
Canady
Clay
Coble
Cox
Crane
Crapo
Cunningham
Diaz-Balart
Doolittle
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Hunter
Hutchinson
Istook
Jacobs
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCrery
McDade
McHugh
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—79

Abercrombie
Ackerman
Andrews (NJ)
Becerra
Bentley
Bilbray
Blackwell
Boehner
Bryant
Camp
Cardin
Castle
Chapman
Clinger
Collins (MI)
Condit
Cooper
Coppersmith
Deal
DeFazio
DeLay
Derrick
Dickey
Dooley
Dornan
Dreier
Edwards (CA)
Engel
Ford (MI)
Gallo
Gilchrest
Grams
Grandy
Hayes
Hefner
Hoke
Hoyer
Huffington
Inhofe
Johnson (CT)
Kopetski
Laughlin
Lewis (FL)
Machtley
Maloney
McCurdy
McMillan
Mfume
Miller (CA)
Mink
Mollohan
Moran
Morella
Murphy
Nadler
Obey
Owens
Rangel
Ridge
Rostenkowski
Roth
Serrano
Slattery
Smith (IA)
Smith (OR)
Stokes
Sundquist
Swett
Synar
Thomas (WY)
Towns
Velazquez
Washington
Wheat
Whitten
Williams
Wilson
Wynn
Yates

So the Journal was approved.

¶106.6 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

3804. A letter from the Acting Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of September 1, 1994, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103–306); to the Committee on Appropriations and ordered to be printed.

3805. A letter from the Assistant to the President for Economic Policy, transmitting a report entitled, ''Report on Whether Foreign Governments or Companies Have a Coordinated Strategy to Acquire U.S. Critical Technology Companies and Whether Foreign Governments Use Espionage Activities to Obtain Commercial U.S. Critical Technology Secrets,'' pursuant to Public Law 102–558, section 163 (106 Stat. 4219); to the Committee on Banking, Finance and Urban Affairs.

3806. A letter from the Acting Chairman, Federal Deposit Insurance Corporation, transmitting the 19th annual report for the year 1993, pursuant to 15 U.S.C. 57a(f)(6); to the Committee on Banking, Finance and Urban Affairs.

3807. A letter from the Secretary of Health and Human Services, transmitting the annual report on the status and accomplishment of the Youth Gang Drug Prevention Program; to the Committee on Education and Labor.

3808. A letter from the Secretary of Health and Human Services, transmitting the biennial report of the Agency for Toxic Substances and Disease Registry covering the period January 1, 1991, through December 31, 1992, pursuant to Public Law 99–499, section 110(10) (100 Stat. 1641); to the Committee on Energy and Commerce.

3809. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94–48), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3810. A letter from the Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Sweden for defense articles and services (Transmittal No. 94–52), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3811. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs [CCNAA] for defense articles and services (Transmittal No. 94–49), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3812. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94–53), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3813. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94–54), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3814. A letter from the Administrator, U.S. Agency for International Development, transmitting notice that the President has determined that it is important to the security interests of the United States to provide Housing Guaranty loans to South Africa (Presidential Determination No. 94–45), pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3815. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Peter Jon de Vos, of Florida, to be Ambassador to the Republic of Costa Rica, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3816. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 94–51), pursuant to 22 U.S.C. 2776(B); to the Committee on Foreign Affairs.

3817. A letter from the Environmental Protection Agency, transmitting the Agency's annual report for the calendar year 1993 under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3818. A letter from the Acting Director, Office of Management and Budget, transmitting a report on the activities of Federal agencies in implementing the Computer Matching and Privacy Protection Act for calendar year 1991, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3819. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's report titled, ''Temporary Federal Employment: In Search of Flexibility and Fairness''; to the Committee on Post Office and Civil Service.

3820. A letter from the Secretary, Department of Energy, transmitting Steel Initiative Management Plan research and development activities report for fiscal year 1993, pursuant to 15 U.S.C. 5107; to the Committee on Science, Space, and Technology.

3821. A letter from the Administrator, Small Business Administration, transmitting a report on developing a secondary market for loans to small businesses; to the Committee on Small Business.

3822. A letter from the Commissioner of Social Security, transmitting a copy of a plan for a new disability claim process; to the Committee on Ways and Means.

3823. A letter from the Secretary, Department of Labor, transmitting the Department's annual report on the fiscal year 1993 program operations of the Office of Workers' Compensation Programs for the period October 1, 1992, through September 30, 1993, pursuant to 30 U.S.C. 936(b); jointly, to the Committee on Education and Labor and Post Office and Civil Service.

3824. A letter from the Deputy Secretary of Defense, transmitting notification that the Department intends to obligate funds in support of joint research and development programs with the former Soviet Union, pursuant to 22 U.S.C. 5955; jointly, to the Committees on Science, Space, and Technology and Armed Services.

3825. A letter from the Acting Administrator, U.S. Agency for International Development, transmitting the Agency's quarterly report for development assistance including the Development Fund for Africa, Special Assistance Initiatives and New Independent States as of June 30, 1994, pursuant to 22 U.S.C. 2413(a); jointly, to the Committees on Foreign Affairs and Appropriations.

3826. A letter from the Architect of the Capitol, transmitting a copy of the 1993 annual report on solid waste management in the Capitol complex; jointly, to the Committees on House Administration and Appropriations.

3827. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's budget requests for fiscal year 1996, pursuant to 49 U.S.C. 10387; jointly, to the Committees on Appropriations, Ways and Means, and Energy and Commerce.

3828. A letter from the Railroad Retirement Board, transmitting the budget request for the Office of Inspector General, Railroad Retirement Board, for fiscal year 1996, pursuant to 45 U.S.C. 231f; jointly, to the Committees on Appropriations, Energy and Commerce, and Ways and Means.

¶106.7 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4217. An Act to reform the Federal crop insurance program, and for other purposes.

¶106.8 NOTICE REQUIREMENT—CONSIDERATION OF RESOLUTION—QUESTION OF PRIVILEGES

Mr. TAYLOR of Mississippi, pursuant to clause 2(a)(1) of rule IX, announced his intention to offer a resolution, as a question of the privileges of the House.

¶106.9 INTELLIGENCE AUTHORIZATION

On motion of Mr. GLICKMAN, by unanimous consent, the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; together with the amendment of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. GLICKMAN, it was,

Resolved, That the House disagree to the amendment of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Thereupon, the SPEAKER pro tempore, Mr. TORRES, by unanimous consent, announced the appointment of the following Members as managers on the part of the House at said conference:

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. GLICKMAN, RICHARDSON, DICKS, DIXON, TORRICELLI, COLEMAN, SKAGGS, and BILBRAY, Ms. PELOSI, and Messrs. LAUGHLIN, CRAMER, REED, COMBEST, BEREUTER, DORNAN, YOUNG of Florida, GEKAS, HANSEN, and LEWIS of California.

From the Committee on Armed Services, for consideration of the defense tactical intelligence and related activities:

Messrs. DELLUMS, SISISKY, and SPENCE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 601 and 704 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, KENNEDY, LAROCCO, MCCANDLESS, and CASTLE.

As additional conferees from the Committee on Government Operations, for consideration of section 601 of the House bill, and modifications committed to conference:

Messrs. CONYERS, TOWNS, and CLINGER.

As additional conferees from the Committee on the Judiciary, for consideration of sections 802–04 of the House bill and sections 601, 703–07, and 709–12 of the Senate amendment, and modifications committed to conference:

Messrs. BROOKS, EDWARDS of California, and HYDE.

Ordered, That the Clerk notify the Senate thereof.

¶106.10 LABOR, HHS, AND EDUCATION APPROPRIATIONS

On motion of Mr. SMITH of Iowa, by unanimous consent, the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes; together with the amendments of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. SMITH of Iowa, it was,

Resolved, That the House disagree to the amendments of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the Clerk notify the Senate thereof.

¶106.11 MOTION TO INSTRUCT CONFEREES—H.R. 4606

Mr. PORTER moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 4606 be instructed to insist on the House position with respect to amendment number 152.

Pending consideration of said motion,

On demand of Ms. WATERS, pursuant to clause 1, rule XXVIII,

Ordered, That time for debate be equally divided among Messrs. SMITH of Iowa, PORTER, and Ms. WATERS.

After debate,

By unanimous consent, the previous question was ordered on the motion to instruct.

The question being put, viva voce,

Will the House agree to said motion?

The SPEAKER pro tempore, Mr. MAZZOLI, announced that the yeas had it.

So the motion to instruct the managers on the part of the House was agreed to.

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

¶106.12 APPOINTMENT OF CONFEREES—H.R. 4606

Thereupon, the SPEAKER pro tempore, Mr. MAZZOLI, by unanimous consent, announced the appointment of Messrs. SMITH of Iowa, OBEY, STOKES, HOYER, Ms. PELOSI, Mrs. LOWEY, Mr. SERRANO, Ms. DELAURO, Messrs. Sabo, Porter, Young of Florida, Mrs. BENTLEY, Messrs. BONILLA, and MCDADE, as managers on the part of the House at said conference.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

¶106.13 AGRICULTURE APPROPRIATIONS

On motion of Mr. DURBIN, by unanimous consent, the bill (H.R. 4554) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes; together with the amendments of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. DURBIN, it was,

Resolved, That the House disagree to the amendments of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the Clerk notify the Senate thereof.

¶106.14 MOTION TO INSTRUCT CONFEREES—H.R. 4554

Mr. SKEEN moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 4606 be instructed to insist on the House position on the amendments of the Senate numbered 43 and 80.

After debate,

By unanimous consent, the previous question was ordered on the motion to instruct.

The question being put, viva voce,

Will the House agree to said motion?

The SPEAKER pro tempore, Mr. MAZZOLI, announced that the yeas had it.

So the motion to instruct the managers on the part of the House was agreed to.

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

¶106.15 APPOINTMENT OF CONFEREES—H.R. 4554

Thereupon, the SPEAKER pro tempore, Mr. MAZZOLI, by unanimous consent, announced the appointment of Messrs. DURBIN, WHITTEN, Ms. KAPTUR, Mr. THORNTON, Ms. DELAURO, Messrs. PETERSON of Florida, PASTOR, SMITH of Iowa, OBEY, SKEEN, MYERS, Mrs. VUCANOVICH, Messrs. Walsh and MCDADE, as managers on the part of the House at said conference.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

¶106.16 INTERIOR APPROPRIATIONS

On motion of Mr. DICKS, by unanimous consent, the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes; together with the amendments of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. DICKS, it was,

Resolved, That the House disagree to the amendments of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the Clerk notify the Senate thereof.

¶106.17 MOTION TO INSTRUCT CONFEREES—H.R. 4602

Mr. REGULA moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 4602 be instructed to insist on the House position on the amendments of the Senate numbered 67 and 68.

After debate,

By unanimous consent, the previous question was ordered on the motion to instruct.

The question being put, viva voce,

Will the House agree to said motion?

The SPEAKER pro tempore, Mr. ANDREWS of Texas, announced that the yeas had it.

Mr. RAHALL objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 318 / Nays ..... 64 }

¶106.18 [Roll No. 421]

YEAS—318

Abercrombie	Clay	Frank (MA)
Andrews (ME)	Clayton	Franks (CT)
Andrews (NJ)	Clement	Franks (NJ)
Andrews (TX)	Clyburn	Frost
Applegate	Coble	Furse
Bacchus (FL)	Coleman	Gallegly
Baesler	Collins (GA)	Gejdenson
Barca	Collins (IL)	Gekas
Barcia	Collins (MI)	Gephardt
Barlow	Conyers	Geren
Barrett (WI)	Costello	Gibbons
Bartlett	Coyne	Gilchrest
Bateman	Cramer	Gilman
Beilenson	Cunningham	Gingrich
Bereuter	Danner	Glickman
Berman	Darden	Gonzalez
Bevill	de la Garza	Goodlatte
Bilirakis	Deal	Goodling
Bishop	DeLauro	Gordon
Blackwell	Dellums	Goss
Bliley	Deutsch	Grandy
Blute	Diaz-Balart	Green
Boehlert	Dicks	Greenwood
Boehner	Dingell	Gutierrez
Bonilla	Dixon	Hall (OH)
Bonior	Dooley	Hamburg
Borski	Duncan	Hamilton
Boucher	Durbin	Harman
Brewster	Edwards (TX)	Hastert
Brooks	Ehlers	Hastings
Browder	English	Hefley
Brown (CA)	Eshoo	Hefner
Brown (FL)	Evans	Hilliard
Brown (OH)	Everett	Hinchey
Bryant	Ewing	Hoagland
Bunning	Farr	Hobson
Byrne	Fawell	Hochbrueckner
Callahan	Fazio	Hoekstra
Canady	Fields (LA)	Holden
Cantwell	Filner	Horn
Cardin	Flake	Houghton
Carr	Foglietta	Hoyer
Castle	Ford (TN)	Hughes
Chapman	Fowler	Hutchinson

Hutto
Hyde
Inglis
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Klug
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Linder
Lipinski
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McHugh
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Mineta
Minge
Moakley
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skelton
Slaugther
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Young (FL)
Zeliff
Zimmer

NAYS—64

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Barton
Bilbray
Burton
Buyer
Calvert
Combest
Cox
Crane
Crapo
DeLay
Doolittle
Dunn
Emerson
Fields (TX)
Gillmor
Hall (TX)
Hancock
Hansen
Herger
Hoke
Hunter
Inhofe
Istook
Johnson, Sam
Kingston
Knollenberg
Kolbe
Kyl
LaRocco
Lewis (KY)
Lightfoot
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McInnis
McKeon
Miller (FL)
Molinari
Orton
Packard
Paxon
Pombo
Royce
Schaefer
Skeen
Stearns
Stenholm
Stump
Talent
Tauzin
Thomas (CA)
Vucanovich
Young (AK)

NOT VOTING—52

Ackerman
Becerra
Bentley
Camp
Clinger
Condit
Cooper
Coppersmith
DeFazio
Derrick
Dickey
Dornan
Dreier
Edwards (CA)
Engel
Fingerhut
Fish
Ford (MI)
Gallo
Grams
Gunderson
Hayes
Huffington
Kopetski
Laughlin
Lewis (CA)
Lewis (FL)
Machtley
Maloney
McCurdy
Mfume
Miller (CA)
Mink
Mollohan
Nadler
Owens
Rangel
Rostenkowski
Roth
Serrano
Slattery
Smith (OR)
Sundquist
Swett
Synar
Thomas (WY)
Towns
Velázquez
Washington
Wilson
Wynn
Yates

So the motion to instruct the managers on the part of the House was agreed to.

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

¶106.19 APPOINTMENT OF CONFEREES—H.R. 4602

Thereupon, the SPEAKER pro tempore, Mr. ANDREWS of Texas, by unanimous consent, announced the appointment of Messrs. YATES, MURTHA, DICKS, BEVILL, SHAGGS, COLEMAN, OBEY, REGULA, MCDADE, KOLBE, and PACKARD., as managers on the part of the House at said conference.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

¶106.20 DOD APPROPRIATIONS

On motion of Mr. MURTHA, by unanimous consent, the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; together with the amendments of the Senate thereto, was taken from the Speaker's table.

When on motion of Mr. MURTHA, it was,

Resolved, That the House disagree to the amendments of the Senate and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the Clerk notify the Senate thereof.

¶106.21 MOTION TO INSTRUCT CONFEREES—H.R. 4650

Mr. WALKER moved that the managers on the part of the House at the conference the disagreeing votes of the two Houses on H.R. 4650 be instructed to agree to the following language:

No funds appropriated under this Act shall be used to deploy United States Armed Forces to Haiti or otherwise support United States Armed Forces in Haiti for purposes of removing the de facto regime or for subsequent peacekeeping by United States Armed Forces without first obtaining the prior approval of the Congress.

¶106.22 POINT OF ORDER

Mr. MURTHA made a point of order against said motion and said:

''Mr. Speaker, I make a point of order against the motion to instruct conferees. The motion instructs conferees to include matter outside the scope of the conferees' authority and is in violation of clause 3, rule XXVIII.''.

Mr. WALKER was recognized to speak to the point of order and said:

''Mr. Speaker, my dear friend, the gentleman from Pennsylvania [Mr. MURTHA], raises the point that the instruction that I have proposed falls outside the scope of the legislation that we have before us.

''Mr. Speaker, the problem with the gentleman's point is the fact that we are about to engage, according to media reports and according to announcements from the administration, in an action in Haiti. This is not an action that was contemplated at the time the bills were being drafted either in the House or the Senate.

''Moreover, the troops are being deployed at the present time to Haiti under funds appropriated last year, none of which were for the purpose of an invasion of Haiti. In my view, the only place that the House has to legitimately address this issue is in the defense appropriations bill where we can limit funding if we do not believe that this particular action should be taken.

''This instruction, while it does not meet the strict interpretation of scope, is certainly within the scope of the moneys that are going to be utilized in the bill that is before us. There is no doubt that if this invasion takes place, the moneys that are going to be appropriated under this bill will be used in Haiti.

''This is an instruction assuring that the Congress has acted on this issue and assuring that none of these funds will go forward and be used by our Armed Forces in Haiti until there has been a prior approval by the Congress for that action.

''So I think this is a necessary action to take and conferees would then be authorized to place this language into the bills that come back for final action in the House. I would hope that the Chair would rule in favor of this as an entirely appropriate way for the House to engage in the issue of Haiti and assure that the Members of this House have had at least a vote on whether or not to engage in a combatant action in the nation of Haiti.''.

The SPEAKER pro tempore, Mr. ANDREWS of Texas, sustained the point of order and said:

''The motion offered by the gentleman includes matter not within the scope of differences on any of the Senate amendments being sent to conference. The motion is, therefore, out of order under clause 3 of rule XXVIII.

''On page 715 of the Manual it is stated that a point of order may be sustained against a motion to instruct House conferees to address a matter beyond the scope of differences being committed to conference by the 215 Senate amendments.

''The Chair sustains the point of order.''.

¶106.23 MOTION TO INSTRUCT CONFEREES—H.R. 4650

Mr. MCDADE moved that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 4650, as they resolve Senate amendment numbered 214, relating to fiscal year 1994 funding for Rwanda, be instructed to agree to the following provisos in Senate amendment 214:

''*Provided further,* That no funds are available for United States participation in operations in or around Rwanda after October 7, 1994''; and

''*Provided further,* That any change in the mission from one of strict refugee relief to security, peace-enforcing, nation-building or any other substantive role, shall not be implemented without the further approval of the Congress.''.

After debate,

By unanimous consent, the previous question was ordered on the motion to instruct the managers on the part of the House.

The question being put, viva voce,

Will the House agree to said motion?

The SPEAKER pro tempore, Mr. ANDREWS of Texas, announced that the yeas had it.

So the motion to instruct the managers on the part of the House was agreed to.

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

¶106.24 APPOINTMENT OF CONFEREES—H.R. 4650

Thereupon, the SPEAKER pro tempore, Mr. ANDREWS of Texas, by unanimous consent, announced the appointment of Messrs. MURTHA, DICKS, WILSON, HEFNER, SABO, DIXON, VISCLOSKY, DARDEN, OBEY, MCDADE, YOUNG of Florida, LIVINGSTON, LEWIS of Georgia, and SKEEN, as managers on the part of the House at said conference.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

¶106.25 PROVIDING FOR A CLOSED CONFERENCE—H.R. 4650

Mr. MURTHA moved, pursuant to clause 6, rule XXVIII, that the conference committee meetings between the House and Senate on H.R. 4650; be closed to the public at such times as classified national security information is under consideration; *Provided, however,* That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The question being put,

Will the House agree to said motion?

The SPEAKER pro tempore, Mr. ANDREWS of Texas, announced that a roll call was required under clause 6, rule XXVIII, and the call was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 376 / Nays ..... 0 }

¶106.26 [Roll No. 422]

AYES—376

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doolittle
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—58

Ackerman
Becerra
Bentley
Camp
Clinger
Condit
Cooper
Coppersmith
DeFazio
Derrick
Dickey
Dooley
Dornan
Dreier
Edwards (CA)
Engel
Fingerhut
Fish
Ford (MI)
Gallo
Grams
Gunderson
Hayes
Huffington
Inhofe
Kopetski
Laughlin
Lewis (CA)
Lewis (FL)
Machtley
Maloney
Mann
McCurdy
McDermott
Mfume
Miller (CA)
Mink
Mollohan
Nadler
Owens
Payne (VA)
Rangel
Rostenkowski
Roth
Serrano
Sharp
Slattery
Smith (OR)
Sundquist
Swett
Synar
Thomas (WY)
Towns
Velazquez
Washington
Wilson
Wynn
Yates

So the motion was agreed to.

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

¶106.27 H.R. 4308—UNFINISHED BUSINESS

The SPEAKER pro tempore, Mr. ANDREWS of Texas, pursuant to clause 5, rule I, announced the unfinished business to be the motion to suspend the rules and pass the bill (H.R. 4308) to amend the North American Wetlands Conservation Act to authorize appropriations for allocations under that Act for wetlands conservation projects; as amended.

The question being put,

Will the House suspend the rules and pass said bill, as amended?

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 368 / Nays ..... 5 }

¶106.28 [Roll No. 423]

YEAS—368

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Eshoo

Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Mineta
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wise
Wolf
Woolsey
Wyden
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Crane
DeLay
Hancock
Johnson, Sam
Stump

NOT VOTING—61

Ackerman
Becerra
Bentley
Berman
Callahan
Camp
Clinger
Condit
Cooper
Coppersmith
DeFazio
Derrick
Dickey
Dornan
Dreier
Edwards (CA)
Engel
Fingerhut
Fish
Ford (MI)
Gallo
Gibbons
Grams
Gunderson
Hayes
Herger
Huffington
Inhofe
Kopetski
Laughlin
Lewis (CA)
Lewis (FL)
Machtley
Maloney
McCollum
McCurdy
McDermott
Mfume
Miller (CA)
Miller (FL)
Mink
Mollohan
Nadler
Owens
Rangel
Rostenkowski
Roth
Serrano
Sharp
Slattery
Smith (OR)
Sundquist
Swett
Synar
Thomas (WY)
Towns
Velazquez
Washington
Williams
Wilson
Wynn

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill, as amended, was passed.

By unanimous consent, the title was amended so as to read: ''A bill to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes.''.

A motion to reconsider the votes whereby the rules were suspended and said bill, as amended, was passed and the title was amended was, by unanimous consent, laid on the table.

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

¶106.29 NOTICE REQUIREMENT—CONSIDERATION OF RESOLUTION—QUESTION OF PRIVILEGES

Mr. COX, pursuant to clause 2(a)(1) of rule IX, announced his intention to offer a resolution, as a question of the privileges of the House.

¶106.30 ADJOURNMENT OVER

On motion of Mr. MONTGOMERY, by unanimous consent,

Ordered, That when the House adjourns today, it adjourn to meet at 10 o'clock a.m. on Friday, September 16, 1994.

¶106.31 ADJOURNMENT OVER

On motion of Mr. MONTGOMERY, by unanimous consent,

Ordered, That when the House adjourns on Friday, September 16, 1994, it adjourn to meet at 12 o'clock noon on Monday, September 19, 1994.

¶106.32 CALENDAR WEDNESDAY BUSINESS DISPENSED WITH

On motion of Mr. MONTGOMERY, by unanimous consent,

Ordered, That business in order for consideration on Wednesday, September 21, 1994, under clause 7, rule XXIV, the Calendar Wednesday rule, be dispensed with.

¶106.33 VETERANS EMPLOYMENT RIGHTS AND BENEFITS

On motion of Mr. MONTGOMERY, by unanimous consent, the bill (H.R. 995) to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes; together with the following amendment of the Senate thereto, was taken from the Speaker's table:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Uniformed Services Employment and Reemployment Rights Act of 1993''.

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—GENERAL

''Sec.
''4301. Purposes; sense of Congress.
''4302. Relation to other law; construction.
''4303. Definitions.
''4304. Character of service.
''SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS
''4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
''4312. Reemployment rights of persons who serve in the uniformed services.
''4313. Reemployment positions.
''4314. Reemployment by the Federal Government.
''4315. Reemployment by certain Federal agencies.
''4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
''4317. Employee pension benefit plans.
''SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION
''4321. Assistance in obtaining reemployment or other employment rights or benefits.
''4322. Enforcement of rights with respect to a State or private employer.
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''SUBCHAPTER I—GENERAL

''§ 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 provisions of this chapter.

''§ 4302. Relation to other law; construction

''(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance) or employer practice, policy, agree-

ment, or plan that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

''(b) This chapter supersedes any State law (including any local law or ordinance) or employer practice, policy, agreement, or plan that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

''§ 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 advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or an employer practice or custom and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

''(3)(A) The term 'employee' means any person employed by an employer.

''(B) With respect to employment in a foreign country, the term 'employee' includes an individual who is a citizen of the United States.

''(4)(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;

''(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

''(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311 of this title.

''(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 4317 of this title.

''(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, and any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5.

''(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

''(7) 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.

''(8) 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.

''(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

''(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

''(11) The term 'Secretary' means the Secretary of Labor or any person designed by such Secretary to carry out an activity under this chapter.

''(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

''(13) 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.

''(14) 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).

''(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

''(A) the nature and cost of the action needed under this chapter;

''(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

''(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

''(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

''(16) 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

''§ 4311. 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, performance, 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, unless the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, performance, 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.

''(d)(1) An employer may take an action otherwise prohibited by this section with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer to violate the law of the foreign country in which the workplace is located.

''(2) If an employer controls a corporation incorporated and located in a foreign country, any practice prohibited by this chapter that is engaged in by such corporation shall be presumed to be engaged in by such employer.

''(3)(A) The prohibitions of this section shall not apply to a foreign employer not controlled by an American employer.

''(B) For purposes of this paragraph the determination of whether an employer controls a corporation shall be based on—

''(i) the interrelation of operations;

''(ii) the common management;

''(iii) the centralized control of labor relations; and

''(iv) the common ownership or financial control of the employer and the corporation.

''§ 4312. Reemployment rights of persons who serve in the uniformed services

''(a) Subject to subsections (b), (c), and (d), any person who is absent from a position of employment by reason of service in the uni-

formed 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) the cumulative length of the absence and of all 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 subsection (e).

''(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or 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 to a person who is absent from a position of employment by reason of service in the uniformed services 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 or under section 331, 332, 359, 360, 367, or 712 of title 14;

''(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) An employer is not required to reemploy a person under this chapter if—

''(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable; or

''(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 of this title, such employment would impose an undue hardship on the employer.

''(2) In any 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), (a)(4), or (b)(2)(B) of section 4313 of this title would impose an undue hardship on the employer,

the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

''(e)(1) Subject to paragraph (2), 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 person's residence; 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) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, 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). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

''(B) 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 period specified in subparagraph (A) impossible or unreasonable.

''(3) A person who fails to report for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices 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 (e)(1) or subsection (e)(2) 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 been terminated pursuant to 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)(A) Except as provided in subparagraph (B), 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), (B), and (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.

''(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4317(a)(2)(A) of this title.

''(4) An employer may not 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 this chapter 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 (e) are met.

''§ 4313. Reemployment positions

''(a) Subject to subsection (b) (in the case of any employee) and section 4314 of this title (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312 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 order of 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 31 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) 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, in the position of employment in which the person

was employed on the date of the commencement of the service in the uniformed services.

''(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 30 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) 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, 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.

''(3) In the case of a person who has a disability incurred in, or aggravated by, such service, and who (after reasonable efforts by the employer to accommodate the disability) 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—

''(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 to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

''(4) In the case of a person who (A) is not qualified to be employed in (i) 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 (ii) 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 in, or aggravated by, service in the uniformed services), and (B) 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) If two or more persons are entitled to reemployment under section 4312 of this title 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 reemployment in that position.

''(2) Any person entitled to reemployment under section 4312 of this title 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, with full seniority.

''(B) In the case of a person who has a disability incurred in, or aggravated by, service in the uniformed 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 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), consistent with circumstances of such person's case, with full seniority.

''§ 4314. Reemployment by the Federal Government

''(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312 of this title, such person shall be reemployed in a position of employment as described in section 4313 of this title.

''(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

''(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 of this title and for which the person is qualified; and

''(B) ensure that the person is offered such position.

''(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

''(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

''(B) it is impossible or unreasonable for the agency to reemploy the person.

''(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''§ 4315. Reemployment by certain Federal agencies

''(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

''(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313 of this title.

''(c)(1) The regulations prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

''(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

''(3) A determination pursuant to this subsection shall not be subject to judicial review.

''(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

''(d)(1) Except as provided in this section, nothing in this section, section 4313 of this title, or section 4324 of this title shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

''(2) This section may not be construed—

''(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

''(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

''(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

''(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

''(2) the appropriate officer of the agency determines under section 4315(c) of this title that reemployment of the person by the agency is impossible or unreasonable; and

''(3) the person submits an application to the Director for an offer of employment under this subsection.

''§ 4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

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

''(b)(1)(A) Subject to paragraphs (2) through (6), a person who performs service in the uniformed services shall be—

''(i) deemed to be on furlough or leave of absence while performing such service; and

''(ii) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a practice, policy, agreement, or plan in effect at the commencement of such service or established while such person performs such service.

''(B) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to subparagraph (A)

to the extent other employees on furlough or leave of absence are so required. 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 arising under 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 served by the person in the uniformed services).

''(2) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits which the person would not otherwise be entitled if the person were not on a furlough or leave of absence.

''(3) A person is not entitled under this subsection to coverage under a health plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

''(4) A person is not entitled under this subsection to coverage, under a disability insurance policy, of an injury or disease incurred or aggravated during a period of active duty service in excess of 31 days to the extent such coverage is excluded or limited by a provision of such policy.

''(5) A person is not entitled under this subsection to coverage, under a life insurance policy, of a death incurred by the person as a result of the person's participation in, or assignment to an area of, armed conflict to the extent that such coverage is excluded or limited by a provision of such policy.

''(6) The requirement that an employer provide rights or benefits under paragraph (1) to a person deemed to be on furlough or leave of absence shall expire on the earlier of—

''(A) the date of the end of the 18-month period that begins on the date on which the person commences the performance of the service referred to in paragraph (1); or

''(B) the date of the expiration of the person's obligation with respect to such service to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

''(7) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4317 of this title.

''(c)(1)(A) Subject to paragraphs (2) and (3), if a person's employer-sponsored health-plan coverage would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services, the person may elect to continue health-plan coverage acquired through civilian employment in accordance with this paragraph so that such coverage continues for not more than 18 months after such absence begins.

''(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 4980B(f)(4))) associated with such coverage for the employer's other employees, except that in the case of a person who performs a period of service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

''(C) 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 arising under 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 served by the person in the uniformed services).

''(2) A person who elects to continue health-plan coverage under this subsection shall not be entitled to coverage under the plan to the extent that the person is entitled to care or treatment from the Federal Government as a result of such person's service in the uniformed services.

''(3) The period of coverage of a person and the person's dependents under a continuation of health-plan coverage elected by the person under this subsection shall be the lesser of—

''(A) the 18-month period beginning on the date on which the absence referred to in paragraph (1) begins; or

''(B) the aggregate of the period of the person's service in the uniformed services and the period in which the person is required to notify the person's employer of the person's intent to return to a position of employment under section 4312(e) of this title.

''(d)(1) Except as provided in paragraph (2), in the case of a person whose coverage by an employer-sponsored health plan as an employee is terminated by reason of the service of such person in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of the coverage of the person upon reemployment under this chapter, or in connection with any other individual who is covered by the health plan by reason of the reinstatement of the coverage of such person upon reemployment, if an exclusion or waiting period would not have been imposed under such health plan had coverage of such person by such health plan not been terminated as a result of such service.

''(2) Paragraph (1) shall not apply to the condition of a person if the Secretary determines that the condition was incurred or aggravated during active military, naval, or air service.

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

''(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

''(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

''(f)(1) Any person described in paragraph (2) whose employment with an employer referred to in that paragraph is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation or annual leave with pay accrued by the person before the commencement of such service.

''(2) A person entitled to the benefit described in paragraph (1) is a person who—

''(A) has accrued vacation or annual leave with pay under a policy or practice of a State (as an employer) or private employer; or

''(B) has accrued such leave as an employee of the Federal Government pursuant to subchapter I of chapter 63 of title 5.

''§ 4317. Employee pension benefit plans

''(a)(1)(A) Except as provided in subparagraph (B), 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.

''(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. This subparagraph shall not be construed to affect any other right or benefit under this chapter.

''(2)(A) Except as provided in section 4312(f)(3)(B) of this title, 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 purpose of determining the nonforfeitability 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 only to the extent the person elects to make employee contributions or elective deferrals that are attributable to the period of service described in subsection (a)(2)(B). No such contributions or deferrals may exceed the amount the person or employer would have been permitted or required to make had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any employee contribution or deferral to the plan described in this paragraph shall be made during any reasonable continuous period (beginning with the date of reemployment) as the employer and the person may agree but in no event shall such person be afforded a payment period shorter than the length of absence for service for which the payments are due.

''(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 rate the employee would have received but for the absence during the period of service; 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).

''(4) Notwithstanding any other provision of this section—

''(A) no earnings shall be credited to an employee with respect to any contribution prior to such contribution being made; and

''(B) any forfeitures during the period described in subsection (a)(2)(B) shall not be allocated to persons reemployed under this chapter.

''(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 notice of such reemployment to the administrator of such plan.

''(d) No provision of this section shall apply to the extent it—

''(1) requires any action to be taken which would cause the plan, any of its participants, or employer to suffer adverse tax or other consequences under the Internal Revenue Code of 1986; or

''(2) requires contributions to be returned or reallocated, or additional contributions to be made, with respect to employees not reemployed under this chapter.

''SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

''§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

''(a) The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

''(b)(1)(A) A person referred to in subparagraph (B) may submit a complaint to the Secretary with respect to the matters described in clause (ii) of such subparagraph. Such complaint shall be submitted in accordance with subsection (c).

''(B) A person may submit a complaint under subparagraph (A) if the person claims—

''(i) to be entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

''(ii) that the employer (including the Office of Personnel Management, if the employer is the Federal Government) has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter.

''(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and to such claimant's employer.

''(c) A complaint submitted under subsection (b) shall be in a form prescribed by the Secretary and shall include—

''(1) the name and address of the employer or potential employer against whom the complaint is directed; and

''(2) a summary of the allegations upon which the complaint is based.

''(d) The Secretary shall investigate each complaint submitted pursuant to subsection (b). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

''(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

''(1) the results of the Secretary's investigation; and

''(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4322 of this title (in the case of a person submitting a complaint against a State or private employer) or section 4323 of this title (in the case of a person submitting a complaint against the Federal Government).

''(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

''§ 4322. Enforcement of rights with respect to a State or private employer

''(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

''(2)(A) A person referred to in subparagraph (B) may commence an action for appropriate relief in an appropriate United States district court.

''(B) A person entitled to commence an action for relief with respect to a complaint under subparagraph (A) is a person who—

''(i) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4321(c) of this title;

''(ii) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

''(iii) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

''(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

''(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person entitled to a right or benefit under this chapter—

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

''(ii) to 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) to 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 addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

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

''(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, 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, and not by an employer, prospective employer, or other entity with obligations under this chapter.

''(5) In any such action, only a State and local government (as an employer), an employer, or a potential employer, as the case may be, shall be a necessary party respondent.

''(6) No State statute of limitations shall apply to any proceeding under this chapter.

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

''§ 4323. Enforcement of rights with respect to Federal executive agencies

''(a)(1) A person who receives from the Secretary a notification pursuant to section 4321(e) of this title of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

''(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

''(B) If the Special Counsel decides not to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

''(b)(1) A person referred to in paragraph (2) may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board. A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

''(2) A person entitled to submit a complaint to the Merit Systems Protection Board under paragraph (1) is a person who—

''(A) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4321(c) of this title;

''(B) has received a notification from the Secretary under section 4321(e) of this title;

''(C) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

''(D) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

''(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b)(1).

''(2) If the Board determines that a Federal executive agency has not complied with the

provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

''(3) Any compensation received by a person pursuant to an order under paragraph (1) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

''(4) If the Board determines as a result of a hearing or adjudication conducted pursuant a complaint submitted by a person directly to the Board pursuant to subsection (b)(1) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

''(d) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

''(e) A person may be represented by the Special Counsel in an action for review of a final order or decision issued by the Merit Systems Protection Board pursuant to subsection (c) that is brought pursuant to section 7703 of title 5 unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

''§ 4324. Enforcement of rights with respect to certain Federal agencies

''(a) This section applies to any person who alleges that—

''(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 of this title was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

''(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

''(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

''(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4321(d) of this title.

''(d) This section may not be construed—

''(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

''(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

''§ 4325. Conduct of investigation; subpoenas

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

''(b) In carrying out any investigation 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 to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the 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 and district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

''(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

''SUBCHAPTER IV—MISCELLANEOUS

''§ 4331. Regulations

''(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with respect to States and local governments (as employers) 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 Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers.

''(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

''(A) The Merit Systems Protection Board.

''(B) The Office of Special Counsel.

''(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

''§ 4332. 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 employers under this chapter.''.

(b) TABLE OF CHAPTERS.—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 members of the uniformed services ..... 4301''.

(c) REPORT RELATING TO IMPLEMENTATION OF REEMPLOYMENT RIGHTS PROVISIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Labor, the Attorney General of the United States, and the Special Counsel referred to in section 4323(a)(1) of title 38, United States Code (as added by subsection (a)), shall each submit a report to the Congress relating to the implementation of chapter 43 of such title (as added by such subsection).

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 an entitlement to rights and benefits under chapter 43 of this title.''.

SEC. 4. REPEAL OF TITLE 5 PROVISIONS RELATING TO REEMPLOYMENT RIGHTS OF RESERVISTS.

(a) REPEAL.—Subchapter II of chapter 35 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the items relating to subchapter II and section 3551.

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting ''or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990'' before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j)(1) of such title is amended—

(1) by striking out ''Each employee'' and inserting in lieu thereof ''(A) Except as provided in subparagraph (B), each employee''; and

(2) by adding at the end the following:

''(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.''.

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting ''or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990'' before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e)(1) of such title is amended—

(1) by striking out ''Each employee'' and inserting in lieu thereof ''(A) Except as provided in subparagraph (B), each employee''; and

(2) by adding at the end the following:

''(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.''.

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out ''1954'' in the flush matter above clause (i) and inserting in lieu thereof ''1986''.

(2) In section 8422(a)(2)(A)(ii), by striking out ''1954'' and inserting in lieu thereof ''1986''.

(3) In section 8432(d), by striking out ''1954'' in the first sentence and inserting in lieu thereof ''1986''.

(4) In section 8433(i)(4), by striking out ''1954'' and inserting in lieu thereof ''1986''.

(5) In section 8440—

(A) by striking out ''1954'' in subsection (a) and inserting in lieu thereof ''1986''; and

(B) by striking out ''1954'' in subsection (c) and inserting in lieu thereof ''1986''.

SEC. 6. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

''§ 8432b. Contributions of persons who perform military service

''(a) This section applies to any employee who—

''(1) separates or enters leave-without-pay status in order to perform military service; and

''(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

''(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

''(2) The maximum amount which an employee may contribute under this subsection is equal to—

''(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

''(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

''(3) Contributions under this subsection—

''(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

''(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

''(C) shall be in addition to any contributions then actually being made under section 8432(a).

''(4)(A) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

''(i) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

''(ii) the period of time over which the employee wishes to make contributions under this subsection.

''(B) The employing agency may place a maximum limit on the period of time referred to in subparagraph (A)(ii), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

''(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

''(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

''(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

''(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

''(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

''(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

''(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

''(f) Amounts paid under subsection (c) or (d) shall be paid—

''(1) by the agency to which the employee is restored or in which such employee is reemployed;

''(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

''(3) within the time prescribed by the Executive Director.

''(g)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

''(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

''(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

''(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

''(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

''(h) The Executive Director shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

''8432b. Contributions of persons who perform military service.''.

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking ''subsection (e).'' and inserting ''subsection (e), unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.''.

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting '', or unless an election under section 8432b(g)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.''.

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) This subsection applies to any employee—

''(A) to whom section 8432b applies; and

''(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

''(i) is eligible to make an election described in subsection (b)(1); or

''(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

''(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).''.

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

''(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

''(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

''(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

''(C) subsections (c) and (d) of section 8432b shall be disregarded.''.

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code (as added by section 2(a)), occurs on or after August 1, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is restored or reemployed in a position of employment (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

SEC. 7. CONFORMING AMENDMENTS.

(a) TITLE 5.—Section 1204(a)(1) of title 5, United States Code, is amended by striking out ''section 4323'' and inserting in lieu thereof ''chapter 43''.

(b) TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out ''section 4321'' and inserting in lieu thereof ''chapter 43''.

SEC. 8. TECHNICAL AMENDMENT.

(a) 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''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102–16 to which such amendment relates.

SEC. 9. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) Except as provided in paragraph (2), the provisions of section 4316(c) of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage shall become effective on the date of enactment of this Act.

(2) A person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue insurance coverage as provided in such section 4316. If such an election is made, insurance coverage shall 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 or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4325 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) DEFINITION.—For the purposes of this section, the term ''service in the uniformed services'' shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

SEC. 10. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out ''$46,000'' and inserting in lieu thereof ''$50,750''.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Uniformed Services Employment and Reemployment Rights Act of 1994''.

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—GENERAL

''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

''4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
''4312. Reemployment rights of persons who serve in the uniformed services.
''4313. Reemployment positions.
''4314. Reemployment by the Federal Government.
''4315. Reemployment by certain Federal agencies.
''4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
''4317. Health plans.
''4318. Employee pension benefit plans.

''SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

''4321. Assistance in obtaining reemployment or other employment rights or benefits.
''4322. Enforcement of employment or reemployment rights.
''4323. Enforcement of rights with respect to a State or private employer.
''4324. Enforcement of rights with respect to Federal executive agencies.
''4325. Enforcement of rights with respect to certain Federal agencies.
''4326. Conduct of investigation; subpoenas.

''SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

''4331. Regulations.
''4332. Reports.
''4333. Outreach.

''SUBCHAPTER I—GENERAL

''§ 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 provisions of 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), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

''(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

''§ 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 advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

''(3) The term 'employee' means any person employed by an employer.

''(4)(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;

''(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

''(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

''(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 4318.

''(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

''(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

''(7) 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.

''(8) 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.

''(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

''(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

''(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

''(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

''(13) 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.

''(14) 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).

''(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

''(A) the nature and cost of the action needed under this chapter;

''(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

''(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

''(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

''(16) 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

''§ 4311. 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, performance of 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, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of 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 and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

''§ 4312. Reemployment rights of persons who serve in the uniformed services

''(a) Subject to subsections (b), (c), and (d) and to section 4304, any person who is absent from a position of employment 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) the cumulative length of the absence and of all 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) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

''(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 to a person who is absent from a position of employment by reason of service in the uniformed services 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 or under section 331, 332, 359, 360, 367, or 712 of title 14;

''(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) An employer is not required to reemploy a person under this chapter if—

''(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

''(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

''(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

''(2) In any 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,

''(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

''(C) the employment referred to in paragraph (1)(C) is brief or for a nonrecurrent period and without a reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

''(e)(1) Subject to paragraph (2), 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 person's residence; 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 or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

''(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) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, 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). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

''(B) 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 period specified in subparagraph (A) impossible or unreasonable.

''(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices 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 (e)(1) or subsection (e)(2) 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 been terminated pursuant to section 4304.

''(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)(A) Except as provided in subparagraph (B), 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), (B), and (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.

''(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

''(4) An employer may not 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 this chapter 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 (e) are met.

''§ 4313. Reemployment positions

''(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, 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 order of 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, only 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, only 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 in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) 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—

''(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 to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

''(4) In the case of a person who (A) is not qualified to be employed in (i) 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 (ii)

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 in, or aggravated during, service in the uniformed services), and (B) 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) If two or more persons are entitled to reemployment under section 4312 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 reemployment in that position.

''(2) Any person entitled to reemployment under section 4312 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 the circumstances of such person's case, with full seniority.

''(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed 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, with full seniority.

''§ 4314. Reemployment by the Federal Government

''(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

''(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

''(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

''(B) ensure that the person is offered such position.

''(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

''(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

''(B) it is impossible or unreasonable for the agency to reemploy the person.

''(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''§ 4315. Reemployment by certain Federal agencies

''(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

''(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

''(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

''(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

''(3) A determination pursuant to this subsection shall not be subject to judicial review.

''(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

''(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

''(2) This section may not be construed—

''(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

''(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

''(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

''(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

''(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

''(3) the person submits an application to the Director for an offer of employment under this subsection.

''§ 4316. 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)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

''(A) deemed to be on furlough or leave of absence while performing such service; and

''(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

''(2)(A) Subject to subparagraph (B), a person who—

''(i) is absent from a position of employment by reason of service in the uniformed services, and

''(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service, is not entitled to rights and benefits under paragraph (1)(B).

''(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph (A).

''(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

''(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

''(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

''(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

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

''(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

''(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

''(d) Any person whose employment with an employer is interrupted by a period of

service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service.

"§ 4317. Health plans

''(a)(1)(A) Subject to paragraphs (2) and (3), in any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

''(i) the 18-month period beginning on the date on which the person's absence begins; or

''(ii) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

''(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

''(C) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

''(i) by the plan in such manner as the plan sponsor shall provide; or

''(ii) if the sponsor does not provide—

''(I) to the last employer employing the person before the period served by the person in the uniformed services, or

''(II) if such last employer is no longer functional, to the plan.

''(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion or waiting period would not have been imposed under health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

''(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

"§ 4318. Employee pension benefit plans

''(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) 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.

''(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

''(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 nonforfeitability 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, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 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, any liability of the plan described in this paragraph shall be allocated—

''(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

''(B) if the sponsor does not provide—

''(i) to the last employer employing the person before the period served by the person in the uniformed services, or

''(ii) if such last employer is no longer functional, to the plan.

''(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 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 the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, not to exceed five years.

''(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) shall be computed—

''(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

''(B) in the case that the determination of such rate is not reasonably certain, 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, 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, ENFORCEMENT, AND INVESTIGATION

"§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

''The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"§ 4322. Enforcement of employment or reemployment rights

''(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 an employer; and

''(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

''(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

''(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.

''(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

''(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

''(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

''(1) the results of the Secretary's investigation; and

''(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in

the case of a person submitting a complaint against a Federal executive agency).

''(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§ 4323. Enforcement of rights with respect to a State or private employer

''(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

''(2) A person may commence an action for relief with respect to a complaint if that person—

''(A) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4322(c);

''(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

''(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

''(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

''(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person claiming a right or benefit under this chapter—

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

''(ii) to require the employer 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) to 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 addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

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

''(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

''(3) The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt 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) In any such action, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

''(6) No State statute of limitations shall apply to any proceeding under this chapter.

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

"§ 4324. Enforcement of rights with respect to Federal executive agencies

''(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

''(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

''(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

''(b) A person may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board if that person—

''(1) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4322(c);

''(2) has received a notification from the Secretary under section 4322(e);

''(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

''(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

''(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b). A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

''(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

''(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

''(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

''(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

''(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

"§ 4325. Enforcement of rights with respect to certain Federal agencies

''(a) This section applies to any person who alleges that—

''(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

''(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

''(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

''(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

''(d) This section may not be construed—

''(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

''(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"§ 4326. Conduct of investigation; subpoenas

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

''(b) In carrying out any investigation 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 to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the 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 and 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.

''(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

''SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

''§ 4331. 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 Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

''(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

''(A) The Merit Systems Protection Board.

''(B) The Office of Special Counsel.

''(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

''§ 4332. Reports

''The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 1996, and annually thereafter through 2000, 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 4323 or 4324, respectively, during such fiscal year.

''(3) The number of complaints filed by the Attorney General pursuant to section 4323 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.

''§ 4333. 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.''.

(b) CONFORMING AMENDMENTS.—

(1) 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 members of the uniformed services ..... 4301''.

(2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out ''section 4323'' and inserting in lieu thereof ''chapter 43''.

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

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out ''section 4321'' and inserting in lieu thereof ''chapter 43''.

(c) 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. 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. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

''§ 8432b. Contributions of persons who perform military service

''(a) This section applies to any employee who—

''(1) separates or enters leave-without-pay status in order to perform military service; and

''(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

''(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

''(2) The maximum amount which an employee may contribute under this subsection is equal to—

''(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

''(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

''(3) Contributions under this subsection—

''(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

''(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

''(C) shall be in addition to any contributions then actually being made under section 8432(a).

''(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

''(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

''(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

''(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

''(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

''(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

''(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

''(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

''(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

''(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

''(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

''(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

''(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

''(1) by the agency to which the employee is restored or in which such employee is reemployed;

''(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

''(3) within the time prescribed by the Executive Director.

''(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

''(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

''(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

''(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

''(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

''(i) The Executive Director shall prescribe regulations to carry out this section.''.

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

''8432b. Contributions of persons who perform military service.''.

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking ''subsection (e).'' and inserting ''subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.''.

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting '', or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.''.

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) This subsection applies to any employee—

''(A) to whom section 8432b applies; and

''(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

''(i) is eligible to make an election described in subsection (b)(1); or

''(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

''(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).''.

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

''(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

''(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

''(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

''(C) subsections (c) and (d) of section 8432b shall be disregarded.''.

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking ''ending on the day before the date of restoration or reemployment (as applicable)'' and inserting ''ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994''.

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting ''or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990'' before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j) of such title is amended—

(1) in paragraph (1)—

(A) by striking ''Each employee'' and inserting ''(A) Except as provided in subparagraph (B), each employee''; and

(B) by adding at the end the following:

''(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.''; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting ''following the period of military service for which such deposit is due''.

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended in the flush matter by inserting ''or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990'' before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e) of such title is amended—

(1) in paragraph (1)—

(A) by striking ''Each employee'' and inserting ''(A) Except as provided in subparagraph (B), each employee''; and

(B) by adding at the end the following:

''(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.''; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting ''following the period of military service for which such deposit is due''.

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out ''1954'' in the flush matter above clause (i) and inserting in lieu thereof ''1986''.

(2) In section 8422(a)(2)(A)(ii), by striking out ''1954'' and inserting in lieu thereof ''1986''.

(3) In section 8432(d), by striking out ''1954'' in the first sentence and inserting in lieu thereof ''1986''.

(4) In section 8433(i)(4), by striking out ''1954'' and inserting in lieu thereof ''1986''.

(5) In section 8440—

(A) by striking out ''1954'' in subsection (a) and inserting in lieu thereof ''1986''; and

(B) by striking out ''1954'' in subsection (c) and inserting in lieu thereof ''1986''.

SEC. 6. TECHNICAL AMENDMENT.

(a) 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''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102–16 to which such amendment relates.

SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out ''$46,000'' and inserting in lieu thereof ''$50,750''.

SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied

the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act.

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall 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 or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) RIGHTS AND BENEFITS RELATIVE TO NOTICE OF INTENT NOT TO RETURN.—Section 4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act.

(h) EMPLOYER PENSION BENEFIT PLANS.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a penison plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect.

(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act, such plan shall have two years to come into compliance with such section and paragraph.

(i) DEFINITION.—For the purposes of this section, the term ''service in the uniformed services'' shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

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

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

¶106.34 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. YATES, for today.

And then,

¶106.35 ADJOURNMENT

On motion of Mr. BROWN of California, pursuant to the special order heretofore agreed to, at 5 o'clock and 5 minutes p.m., the House adjourned until 10 o'clock a.m. on Friday, September 16, 1994.

¶106.36 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. DINGELL: Committee on Energy and Commerce. H.R. 2919. A bill to amend the Public Health Service Act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; with an amendment (Rept. No. 103–719). Referred to the Committee of the Whole House on the state of the Union.

¶106.37 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. HAMILTON:

H.R. 5030. A bill to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SAWYER:

H.R. 5031. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio; to the Committee on Energy and Commerce.

By Mr. BREWSTER (for himself and Mr. MCCRERY):

H.R. 5032. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of the estate tax imposed on family-owned business interests; to the Committee on Ways and Means.

By Mr. BAKER of Louisiana (for himself, Mr. SARPALIUS, Mr. BARTLETT of Maryland, Mr. HAMILTON, Mr. MCCLOSKEY, Mr. COMBEST, Mr. RAMSTAD, Mr. KYL, Mr. STUMP, Mr. FIELDS of Texas, Mr. BARCIA of Michigan, Mr. HANCOCK, Mr. POSHARD, Mr. GRAMS, Mr. CRANE, Mr. MYERS of Indiana, Mr. KOLBE, Mr. GENE GREEN of Texas, Mr. CALLAHAN, Mr. ROBERTS, Mr. THOMAS of Wyoming, and Mr. GOODLATTE):

H.R. 5033. A bill to eliminate the administrative authority to prohibit the possession or transfer of particular assault weapons; to the Committee on the Judiciary.

By Mr. BERMAN (for himself and Ms. SNOWE):

H.R. 5034. A bill to make certain technical amendments relating to the State Department Basic Authorities Act of 1956, the United States Information and Educational Exchange Act of 1948, and other provisions of law; to the Committee on Foreign Affairs.

By Ms. ENGLISH of Arizona:

H.R. 5035. A bill to authorize the Secretary of Agriculture to establish and collect recreation use fees on a temporary basis in connection with the recreational use of the Roosevelt Lake Recreation Area in the Tonto National Forest in the State of Arizona; to the Committee on Natural Resources.

By Mr. GEJDENSON:

H.R. 5036. A bill to enhance access to the benefits of the earned income tax credit by expanding the electronic filing of income tax returns by nonprofit organizations on behalf of individuals eligible for such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. GEKAS:

H.R. 5037. A bill to establish a Bipartisan Health Care Reform Commission to analyze and make recommendations concerning health care reform; jointly, to the Committee on Energy and Commerce, Ways and Means, Armed Services, Post Office and Civil Service, Education and Labor, Veterans' Affairs, and Rules.

By Mr. GREENWOOD (for himself and Mrs. MEYERS of Kansas):

H.R. 5038. A bill to amend the United States Housing Act of 1937 to require certain legal aliens to reside in the United States for a period of 5 consecutive years to be eligible for a preference for occupancy in public housing or for the provision of rental housing assistance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GREENWOOD:

H.R. 5039. A bill to require unmarried minors who are parents or pregnant to live under adult supervision as a condition of receiving certain welfare benefits, to provide incentives for the establishment by the private sector of homes for such minors, and to provide for rehabilitation grants for housing and services facilities; jointly, to the Committees on Ways and Means; Banking, Finance and Urban Affairs; Education and Labor; Energy and Commerce; and Agriculture.

By Mr. KLINK:

H.R. 5040. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Education and Labor.

By Mr. MCCOLLUM (for himself, Mr. MACHTLEY, Mr. FRANK of Massachusetts, Mr. MCCLOSKEY, and Mr. SCHUMER):

H.R. 5041. A bill to amend the Immigration and Nationality Act to continue the visa waiver pilot program and to authorize, under certain conditions, the creation of a probationary status for certain participants in the visa waiver pilot program; to the Committee on the Judiciary.

By Mr. MILLER of Florida:

H.R. 5042. A bill to limit the accrual of pension benefits for Members of Congress to 12 years of service, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. MURPHY:

H.R. 5043. A bill to amend title 10, United States Code, to establish procedures for determining that status of certain missing

members of the Armed Forces and certain other civilians, and for other purposes; to the Committee on Armed Services.

By Mr. VENTO (for himself, Mr. NEAL of Massachusetts, Mr. BOUCHER, Mr. MOLLOHAN, Mr. TORKILDSEN, Mr. DERRICK, Mr. HINCHEY, Mr. GILMAN, Mr. BARLOW, Mr. BLUTE, Mr. MCNULTY, Mr. FISH, Mr. HAMILTON, Mr. MCCLOSKEY, Mr. COYNE, Mr. REED, Mr. JOHNSON of Georgia, Mr. REGULA, Mr. SAWYER, Mr. WOLF, Mr. BROWN of Ohio, Mr. TRAFICANT, Mr. HOKE, Mr. FINGERHUT, Mr. STRICKLAND, Mr. GILLMOR, Mr. HALL of Ohio, Mrs. UNSOELD, Mr. STOKES, and Mr. RAHALL):

H.R. 5044. A bill to establish the American Heritage Areas Partnership Program, and for other purposes; to the Committee on Natural Resources.

By Mr. TALENT:

H.J. Res. 409. Joint resolution designating October 23, 1994, through October 31, 1994, as ''National Red Ribbon Week for a Drug-Free America''; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Florida:

H. Res. 530. Resolution providing that the House should not consider health care legislation in violation of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or any health care legislation that amends or supersedes that section; to the Committee on Rules.

¶106.38 MEMORIALS

Under clause 4 of rule XXII,.

478. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Medicaid funds; which was referred, jointly, to the Committees on Foreign Affairs and Energy and Commerce.

¶106.39 PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HOEKSTRA introduced a bill (H.R. 5045) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Andrew J.;* which was referred to the Committee on Merchant Marine and Fisheries.

¶106.40 ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 250: Mr. BAKER of California.

H.R. 417: Mr. LEVY, Mr. ROHRABACHER, Mr. LIGHTFOOT, and Mr. ANDREWS of New Jersey.

H.R. 507: Mr. QUINN.

H.R. 539: Mr. LIVINGSTON.

H.R. 702: Mr. PACKARD.

H.R. 780: Mr. MCCLOSKEY.

H.R. 1110: Mr. CANADY, Mr. DORNAN, and Mr. BACHUS of Alabama.

H.R. 1172: Mr. STUPAK.

H.R. 1304: Mr. HINCHEY.

H.R. 1500: Ms. CANTWELL, Mr. COLEMAN, Ms. DELAURO, Mr. JACOBS, Mr. KENNEDY, Mr. LEWIS of Georgia, and Mr. RANGEL.

H.R. 1551: Mrs. MEYERS of Kansas.

H.R. 1793: Mr. ROMERO-BARCELÓ.

H.R. 2088: Mr. MOORHEAD, Mr. PAYNE of Virginia, Mr. SARPALIUS, and Mr. WATT.

H.R. 2467: Mr. ANDREWS of Texas, Mr. BRYANT, Mr. MINETA, and Mr. JEFFERSON.

H.R. 2717: Mr. MCCRERY.

H.R. 3488: Mr. COMBEST, Mr. QUINN, Mr. MCINNIS, Mr. Rohrabacher, Mr. SUNDQUIST, Mr. BLUTE, and Mr. LEVY.

H.R. 3835: Mr. MCCRERY.

H.R. 3871: Mr. MILLER of Florida.

H.R. 3971: Mr. HOLDEN, Mr. WILSON, Mr. LEVY, and Mr. RICHARDSON.

H.R. 4132: Mr. HASTINGS.

H.R. 4142: Mr. ENGEL, Mr. ACKERMAN, Mr. DORNAN, and Mr. COX.

H.R. 4198: Mr. INHOFE and Mr. POMBO.

H.R. 4210: Mr. PAYNE of New Jersey, Ms. NORTON, Mr. MICA, Mr. Hoke, Mr. FROST, Mr. LIPINSKI, Mr. CALVERT, Mr. HASTINGS, Mr. FRANK of Massachusetts, Mr. KOPETSKI, Mr. NEAL of North Carolina, Mr. SCHIFF, Mrs. BYRNE, Mrs. Johnson of Connecticut, and Mr. MCNULTY.

H.R. 4225: Mr. FROST and Mr. LEVY.

H.R. 4326: Mr. CARDIN and Mr. LEWIS of Georgia.

H.R. 4411: Mr. THOMPSON.

H.R. 4497: Mr. GUNDERSON, Mr. ABERCROMBIE, Mrs. CLAYTON, Mr. GOSS, Ms. ROYBAL-ALLARD, Ms. LONG, Mr. GILCHREST, Mr. BROWN of Ohio, Mr. Baker of Louisiana, Mr. KILDEE, Mr. MCHUGH, Mr. HOUGHTON, Mr. QUINN, Mr. LAFALCE, Ms. PRYCE of Ohio, and Mr. SHAW.

H.R. 4517: Mr. GENE GREEN of Texas.

H.R. 4548: Mrs. MINK of Hawaii and Ms. WATERS.

H.R. 4557: Mr. WILSON.

H.R. 4570: Mr. COPPERSMITH and Mr. STUDDS.

H.R. 4646: Mr. DARDEN.

H.R. 4698: Mr. DEFAZIO.

H.R. 4708: Mr. THOMPSON.

H.R. 4779: Mr. GREENWOOD, Mr. HOLDEN, Mr. MCHALE, AND Mr. ROGERS.

H.R. 4792: Mr. ZELIFF.

H.R. 4810: Mr. LAFALCE.

H.R. 4826: Mr. COMBEST and Mr. PACKARD.

H.R. 4830: Mr. HEFLEY.

H.R. 4831: Mr. MCCOLLUM and Mr. EVERETT.

H.R. 4891: Mr. COLEMAN.

H.R. 4912: Mr. DELLUMS, Mr. FLAKE, Mr. PAYNE of New Jersey, Mr. EDWARDS of Texas, Mr. POSHARD, Mr. WISE, and Mr. ROGERS.

H.R. 4936: Mr. THOMAS of Wyoming, Mr. PASTOR, and Mr. GALLEGLY.

H.R. 4953: Mr. GALLEGLY, Mr. PACKARD, Mr. CALVERT, Mr. ROYCE, Mr. DOOLITTLE, and Mr. CUNNINGHAM.

H.R. 4955: Mr. FROST.

H.R. 4964: Mr. HILLIARD.

H.R. 4971: Mr. SCHUMER.

H.R. 4977: Mrs. MORELLA.

H.R. 4978: Mrs. MORELLA.

H.R. 4979: Mrs.MORELLA.

H.R. 4997: Mrs. SCHROEDER, Mr. MINETA, Mr. BECERRA, Mr. DIXON, Mr. SHAYS, Mr. REVENEL, and Mr. YATES.

H.R. 4998: Mr. HERGER, Mr. HAMILTON, and Mr. BAESLER.

H.J. Res. 113: Mr. SHUSTER.

H.J. Res. 324: Mr. HAYES.

H.J. Res. 332: Mr. GOODLATTE, Mr. FARR, and Mr. GUNDERSON.

H.J. Res. 384: Mr. MCDADE, Mr. BORSKI, Mr. KASICH, Mr. NEAL of Massachusetts, Mr. MEEHAM, Mr. EMERSON, Mr. HUGHES, and Mr. LEACH.

H.J. Res. 397: Mr. MINETA, Mr. FLAKE, Mr. PALLONE, Ms. MCKINNEY, Mr. TEJEDA, Mr. LEWIS of California, Mr. WAXMAN, Mr. BILBRAY, Mr. EVANS, Mr. REVENEL, Mr. MARTINEZ, Mr. OLVER, Mr. QUILLEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. INSLEE, Mr. FALEOMAVAEGA, Mr. MEEHAM, Mr. DEUTSCH, Mr. ENGEL, Mr. BAKER of California, Mr. BECERRA, Mr. KENNEDY, and Mr. SCHUMER.

H.J. Res. 398: Mrs. BENTLEY, Mr. BARTLETT of Maryland, Mr. HAYES, Mr. PARKER, Mr. KASICH, Mr. BACCHUS of Florida, Mr. MARTINEZ, Mr. UNDERWOOD, Mr. THOMAS of Wyoming, Mr. DICKEY, and Mr. EVERETT.

H.J. Res. 403: Mr. FISH, Mr. BOEHLERT, Mr. SCHIFF, Mr. MCCLOSKEY, Mr. RAMSTAD, Mr. GINGRICH, Mr. ENGEL, Mr. HINCHEY, and Mr. LEWIS of California.

H. Con. Res. 35: Mr. GORDON, Mr. LEHMAN, Mr. BACCHUS of Florida, Mr. BROWDER, Mr. HILLIARD, Mr. BROWN of California, Ms. ESHOO, Mr. FARR, Mr. MATSUI, Mr. MINETA, Mr. WAXMAN, Mrs. MEEK of Florida, Mr. DARDEN, Mr. DEAL, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. BARLOW, Mr. MARKEY, Mr. MEEHAN, Mr. OLVER, Mr. MINGE, Mr. PENNY, Mr. SABO, Mr. PARKER, Mr. THOMPSON, Mr. CLYBURN, Mr. SPRATT, Mr. FROST, Mr. GONZALEZ, Mr. GENE GREEN of Texas, Ms. CANTWELL, Mr. TORRES, and Mr. BISHOP.

H. Con. Res. 212: Mr. CRAMER and Ms. SHEPHERD.

H. Con. Res. 223: Mr. DELLUMS, Mr. THOMPSON, and Mr. GENE GREEN of Texas.

H. Con. Res. 234: Mr. BROWN of Ohio, Mr. FAZIO, Mr. HINCHEY, Mr. SANDERS, and Mr. STOKES.

H. Con. Res. 243: Mr. MACHTLEY and Mr. DARDEN.

H. Con. Res. 269: Mr. GOODLING, Mr. HOEKSTRA, Mr. HASTERT, Mr. MCINNIS, Mr. BARRETT of Nebraska, Mrs. MORELLA, and Mr. EVERETT.

H. Con. Res. 280: Mr. TORRICELLI.

H. Con. Res. 281: Mr. MCNULTY, Mr. ANDREWS of New Jersey, and Mr. LEVY.

H. Res. 372: Mr. HOEKSTRA.

H. Res. 472: Ms. MOLINARI, Mr. BACHUS of Alabama, Mr. ROYCE, and Mr. MCCRERY.

¶106.41 PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

128. By the SPEAKER: A petition of Attorney General of Washington, Olympia, WA, relative to health care; to the Committee on Energy and Commerce.

129. Also, petition of President, Parliament of the Republic of Croatia, relative to U.N. Protection Force in the territory of the Republic of Croatia; to the Committee on Foreign Affairs.

130. Also, petition of Asamblea Municipal, Aguadilla, PR, relative to election of the President and Vice President of the United States; to the Committee on Natural Resources.

FRIDAY, SEPTEMBER 16, 1994 (107)

¶107.1 DESIGNATION OF SPEAKER PRO TEMPORE

The House was called to order by the SPEAKER pro tempore, Mr. RICHARDSON, who laid before the House the following communication:

September 16, 1994.

I hereby designate the Honorable BILL RICHARDSON to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

¶107.2 APPROVAL OF THE JOURNAL

The SPEAKER pro tempore, Mr. RICHARDSON, announced he had examined and approved the Journal of the proceedings of Tuesday, September 13, 1994.

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

¶107.3 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

3829. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act and animal quarantine laws to provide for improved public health and food safety through the reduction of pathogens, and for other purposes; to the Committee on Agriculture.