

In the House of Representatives, U. S.,

September 13, 1994.

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 995) entitled “An Act 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”, with the following

AMENDMENT:

In lieu of the matter proposed to be inserted by said amendment, insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Uniformed Services Em-*
3 *ployment and Reemployment Rights Act of 1994”.*

4 ***SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.***

5 *(a) RESTATEMENT AND IMPROVEMENT OF EMPLOY-*
6 *MENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title*
7 *38, United States Code, is amended to read as follows:*

8 ***“CHAPTER 43—EMPLOYMENT AND REEMPLOY-***
9 ***MENT RIGHTS OF MEMBERS OF THE UNI-***
10 ***FORMED 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.

1 “SUBCHAPTER I—GENERAL

2 “§ 4301. **Purposes; sense of Congress**

3 “(a) The purposes of this chapter are—

4 “(1) to encourage noncareer service in the uni-
5 formed services by eliminating or minimizing the dis-
6 advantages to civilian careers and employment which
7 can result from such service;

8 “(2) to minimize the disruption to the lives of
9 persons performing service in the uniformed services
10 as well as to their employers, their fellow employees,
11 and their communities, by providing for the prompt

1 *reemployment of such persons upon their completion*
2 *of such service under honorable conditions; and*

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

5 *“(b) It is the sense of Congress that the Federal Gov-*
6 *ernment should be a model employer in carrying out the*
7 *provisions of this chapter.*

8 **“§ 4302. Relation to other law and plans or agree-**
9 **ments**

10 *“(a) Nothing in this chapter shall supersede, nullify*
11 *or diminish any Federal or State law (including any local*
12 *law or ordinance), contract, agreement, policy, plan, prac-*
13 *tice, or other matter that establishes a right or benefit that*
14 *is more beneficial to, or is in addition to, a right or benefit*
15 *provided for such person in this chapter.*

16 *“(b) This chapter supersedes any State law (including*
17 *any local law or ordinance), contract, agreement, policy,*
18 *plan, practice, or other matter that reduces, limits, or elimi-*
19 *nates in any manner any right or benefit provided by this*
20 *chapter, including the establishment of additional pre-*
21 *requisites to the exercise of any such right or the receipt*
22 *of any such benefit.*

23 **“§ 4303. Definitions**

24 *“For the purposes of this chapter—*

1 “(1) The term ‘Attorney General’ means the At-
2 torney General of the United States or any person
3 designated by the Attorney General to carry out a re-
4 sponsibility of the Attorney General under this chap-
5 ter.

6 “(2) The term ‘benefit’, ‘benefit of employment’,
7 or ‘rights and benefits’ means any advantage, profit,
8 privilege, gain, status, account, or interest (other than
9 wages or salary for work performed) that accrues by
10 reason of an employment contract or agreement or an
11 employer policy, plan, or practice and includes rights
12 and benefits under a pension plan, a health plan, an
13 employee stock ownership plan, insurance coverage
14 and awards, bonuses, severance pay, supplemental
15 unemployment benefits, vacations, and the oppor-
16 tunity to select work hours or location of employment.

17 “(3) The term ‘employee’ means any person em-
18 ployed by an employer.

19 “(4)(A) Except as provided in subparagraphs
20 (B) and (C), the term ‘employer’ means any person,
21 institution, organization, or other entity that pays
22 salary or wages for work performed or that has con-
23 trol over employment opportunities, including—

24 “(i) a person, institution, organization, or
25 other entity to whom the employer has delegated

1 *the performance of employment-related respon-*
2 *sibilities;*

3 “(ii) *the Federal Government;*

4 “(iii) *a State;*

5 “(iv) *any successor in interest to a person,*
6 *institution, organization, or other entity referred*
7 *to in this subparagraph; and*

8 “(v) *a person, institution, organization, or*
9 *other entity that has denied initial employment*
10 *in violation of section 4311.*

11 “(B) *In the case of a National Guard technician*
12 *employed under section 709 of title 32, the term ‘em-*
13 *ployer’ means the adjutant general of the State in*
14 *which the technician is employed.*

15 “(C) *Except as an actual employer of employees,*
16 *an employee pension benefit plan described in section*
17 *3(2) of the Employee Retirement Income Security Act*
18 *of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an*
19 *employer only with respect to the obligation to pro-*
20 *vide benefits described in section 4318.*

21 “(5) *The term ‘Federal executive agency’ includes*
22 *the United States Postal Service, the Postal Rate*
23 *Commission, any nonappropriated fund instrumen-*
24 *tality of the United States, any Executive agency (as*
25 *that term is defined in section 105 of title 5) other*

1 *than an agency referred to in section*
2 *2302(a)(2)(C)(ii) of title 5, and any military depart-*
3 *ment (as that term is defined in section 102 of title*
4 *5) with respect to the civilian employees of that de-*
5 *partment.*

6 *“(6) The term ‘Federal Government’ includes*
7 *any Federal executive agency, the legislative branch of*
8 *the United States, and the judicial branch of the*
9 *United States.*

10 *“(7) The term ‘health plan’ means an insurance*
11 *policy or contract, medical or hospital service agree-*
12 *ment, membership or subscription contract, or other*
13 *arrangement under which health services for individ-*
14 *uals are provided or the expenses of such services are*
15 *paid.*

16 *“(8) The term ‘notice’ means (with respect to*
17 *subchapter II) any written or verbal notification of*
18 *an obligation or intention to perform service in the*
19 *uniformed services provided to an employer by the*
20 *employee who will perform such service or by the uni-*
21 *formed service in which such service is to be per-*
22 *formed.*

23 *“(9) The term ‘qualified’, with respect to an em-*
24 *ployment position, means having the ability to per-*
25 *form the essential tasks of the position.*

1 “(10) The term ‘reasonable efforts’, in the case of
2 actions required of an employer under this chapter,
3 means actions, including training provided by an em-
4 ployer, that do not place an undue hardship on the
5 employer.

6 “(11) Notwithstanding section 101, the term
7 ‘Secretary’ means the Secretary of Labor or any per-
8 son designated by such Secretary to carry out an ac-
9 tivity under this chapter.

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

14 “(13) The term ‘service in the uniformed serv-
15 ices’ means the performance of duty on a voluntary
16 or involuntary basis in a uniformed service under
17 competent authority and includes active duty, active
18 duty for training, initial active duty for training, in-
19 active duty training, full-time National Guard duty,
20 and a period for which a person is absent from a po-
21 sition of employment for the purpose of an examina-
22 tion to determine the fitness of the person to perform
23 any such duty.

24 “(14) The term ‘State’ means each of the several
25 States of the United States, the District of Columbia,

1 *the Commonwealth of Puerto Rico, Guam, the Virgin*
2 *Islands, and other territories of the United States (in-*
3 *cluding the agencies and political subdivisions there-*
4 *of).*

5 “(15) *The term ‘undue hardship’, in the case of*
6 *actions taken by an employer, means actions requir-*
7 *ing significant difficulty or expense, when considered*
8 *in light of—*

9 “(A) *the nature and cost of the action need-*
10 *ed under this chapter;*

11 “(B) *the overall financial resources of the*
12 *facility or facilities involved in the provision of*
13 *the action; the number of persons employed at*
14 *such facility; the effect on expenses and resources,*
15 *or the impact otherwise of such action upon the*
16 *operation of the facility;*

17 “(C) *the overall financial resources of the*
18 *employer; the overall size of the business of an*
19 *employer with respect to the number of its em-*
20 *ployees; the number, type, and location of its fa-*
21 *cilities; and*

22 “(D) *the type of operation or operations of*
23 *the employer, including the composition, struc-*
24 *ture, and functions of the work force of such em-*
25 *ployer; the geographic separateness, administra-*

1 *tive, or fiscal relationship of the facility or fa-*
2 *cilities in question to the employer.*

3 “(16) *The term ‘uniformed services’ means the*
4 *Armed Forces, the Army National Guard and the Air*
5 *National Guard when engaged in active duty for*
6 *training, inactive duty training, or full-time Na-*
7 *tional Guard duty, the commissioned corps of the*
8 *Public Health Service, and any other category of per-*
9 *sons designated by the President in time of war or*
10 *emergency.*

11 **“§ 4304. Character of service**

12 *“A person’s entitlement to the benefits of this chapter*
13 *by reason of the service of such person in one of the uni-*
14 *formed services terminates upon the occurrence of any of*
15 *the following events:*

16 *“(1) A separation of such person from such uni-*
17 *formed service with a dishonorable or bad conduct*
18 *discharge.*

19 *“(2) A separation of such person from such uni-*
20 *formed service under other than honorable conditions,*
21 *as characterized pursuant to regulations prescribed by*
22 *the Secretary concerned.*

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

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

3 “SUBCHAPTER II—EMPLOYMENT AND REEM-
4 PLOYMENT RIGHTS AND LIMITATIONS; PRO-
5 HIBITIONS

6 “**§4311. Discrimination against persons who serve in**
7 **the uniformed services and acts of re-**
8 **prisal prohibited**

9 “(a) A person who is a member of, applies to be a
10 member of, performs, has performed, applies to perform, or
11 has an obligation to perform service in a uniformed service
12 shall not be denied initial employment, reemployment, re-
13 tention in employment, promotion, or any benefit of em-
14 ployment by an employer on the basis of that membership,
15 application for membership, performance of service, appli-
16 cation for service, or obligation.

17 “(b) An employer shall be considered to have denied
18 a person initial employment, reemployment, retention in
19 employment, promotion, or a benefit of employment in vio-
20 lation of this section if the person’s membership, applica-
21 tion for membership, service, application for service, or obli-
22 gation for service in the uniformed services is a motivating
23 factor in the employer’s action, unless the employer can
24 prove that the action would have been taken in the absence

1 of such membership, application for membership, perform-
2 ance of service, application for service, or obligation.

3 “(c)(1) An employer may not discriminate in employ-
4 ment against or take any adverse employment action
5 against any person because such person has taken an action
6 to enforce a protection afforded any person under this chap-
7 ter, has testified or otherwise made a statement in or in
8 connection with any proceeding under this chapter, has as-
9 sisted or otherwise participated in an investigation under
10 this chapter, or has exercised a right provided for in this
11 chapter.

12 “(2) The prohibition in paragraph (1) shall apply
13 with respect to a person regardless of whether that person
14 has performed service in the uniformed services and shall
15 apply to any position of employment, including a position
16 that is described in section 4312(d)(1)(C).

17 **“§ 4312. Reemployment rights of persons who serve in**
18 **the uniformed services**

19 “(a) Subject to subsections (b), (c), and (d) and to sec-
20 tion 4304, any person who is absent from a position of em-
21 ployment by reason of service in the uniformed services
22 shall be entitled to the reemployment rights and benefits
23 and other employment benefits of this chapter if—

24 “(1) the person (or an appropriate officer of the
25 uniformed service in which such service is performed)

1 *has given advance written or verbal notice of such*
2 *service to such person’s employer;*

3 “(2) *the cumulative length of the absence and of*
4 *all previous absences from a position of employment*
5 *with that employer by reason of service in the uni-*
6 *formed services does not exceed five years; and*

7 “(3) *except as provided in subsection (f), the per-*
8 *son reports to, or submits an application for reem-*
9 *ployment to, such employer in accordance with the*
10 *provisions of subsection (e).*

11 “(b) *No notice is required under subsection (a)(1) if*
12 *the giving of such notice is precluded by military necessity*
13 *or, under all of the relevant circumstances, the giving of*
14 *such notice is otherwise impossible or unreasonable. A deter-*
15 *mination of military necessity for the purposes of this sub-*
16 *section shall be made pursuant to regulations prescribed by*
17 *the Secretary of Defense and shall not be subject to judicial*
18 *review.*

19 “(c) *Subsection (a) shall apply to a person who is ab-*
20 *sent from a position of employment by reason of service in*
21 *the uniformed services if such person’s cumulative period*
22 *of service in the uniformed services, with respect to the em-*
23 *ployer relationship for which a person seeks reemployment,*
24 *does not exceed five years, except that any such period of*
25 *service shall not include any service—*

1 “(1) that is required, beyond five years, to com-
2 plete an initial period of obligated service;

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

8 “(3) performed as required pursuant to section
9 270 of title 10, under section 502(a) or 503 of title
10 32, or to fulfill additional training requirements de-
11 termined and certified in writing by the Secretary
12 concerned, to be necessary for professional develop-
13 ment, or for completion of skill training or retrain-
14 ing; or

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

17 “(A) ordered to or retained on active duty
18 under section 672(a), 672(g), 673, 673b, 673c, or
19 688 of title 10 or under section 331, 332, 359,
20 360, 367, or 712 of title 14;

21 “(B) ordered to or retained on active duty
22 (other than for training) under any provision of
23 law during a war or during a national emer-
24 gency declared by the President or the Congress;

1 “(C) ordered to active duty (other than for
2 training) in support, as determined by the Sec-
3 retary concerned, of an operational mission for
4 which personnel have been ordered to active duty
5 under section 673b of title 10;

6 “(D) ordered to active duty in support, as
7 determined by the Secretary concerned, of a crit-
8 ical mission or requirement of the uniformed
9 services; or

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

13 “(d)(1) An employer is not required to reemploy a per-
14 son under this chapter if—

15 “(A) the employer’s circumstances have so
16 changed as to make such reemployment impossible or
17 unreasonable;

18 “(B) in the case of a person entitled to reemploy-
19 ment under subsection (a)(3), (a)(4), or (b)(2)(B) of
20 section 4313, such employment would impose an
21 undue hardship on the employer; or

22 “(C) the employment from which the person
23 leaves to serve in the uniformed services is for a brief,
24 nonrecurrent period and there is no reasonable expect-

1 *tation that such employment will continue indefi-*
2 *nitely or for a significant period.*

3 *“(2) In any proceeding involving an issue of wheth-*
4 *er—*

5 *“(A) any reemployment referred to in paragraph*
6 *(1) is impossible or unreasonable because of a change*
7 *in an employer’s circumstances,*

8 *“(B) any accommodation, training, or effort re-*
9 *ferred to in subsection (a)(3), (a)(4), or (b)(2)(B) of*
10 *section 4313 would impose an undue hardship on the*
11 *employer, or*

12 *“(C) the employment referred to in paragraph*
13 *(1)(C) is brief or for a nonrecurrent period and with-*
14 *out a reasonable expectation that such employment*
15 *will continue indefinitely or for a significant period,*
16 *the employer shall have the burden of proving the impos-*
17 *sibility or unreasonableness, undue hardship, or the brief*
18 *or nonrecurrent nature of the employment without a reason-*
19 *able expectation of continuing indefinitely or for a signifi-*
20 *cant period.*

21 *“(e)(1) Subject to paragraph (2), a person referred to*
22 *in subsection (a) shall, upon the completion of a period of*
23 *service in the uniformed services, notify the employer re-*
24 *ferred to in such subsection of the person’s intent to return*
25 *to a position of employment with such employer as follows:*

1 “(A) In the case of a person whose period of serv-
2 ice in the uniformed services was less than 31 days,
3 by reporting to the employer—

4 “(i) not later than the beginning of the first
5 full regularly scheduled work period on the first
6 full calendar day following the completion of the
7 period of service and the expiration of eight
8 hours after a period allowing for the safe trans-
9 portation of the person from the place of that
10 service to the person’s residence; or

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

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

22 “(C) In the case of a person whose period of serv-
23 ice in the uniformed services was for more than 30
24 days but less than 181 days, by submitting an appli-
25 cation for reemployment with the employer not later

1 *than 14 days after the completion of the period of*
2 *service or if submitting such application within such*
3 *period is impossible or unreasonable through no fault*
4 *of the person, the next first full calendar day when*
5 *submission of such application becomes possible.*

6 *“(D) In the case of a person whose period of*
7 *service in the uniformed services was for more than*
8 *180 days, by submitting an application for reemploy-*
9 *ment with the employer not later than 90 days after*
10 *the completion of the period of service.*

11 *“(2)(A) A person who is hospitalized for, or convalesc-*
12 *ing from, an illness or injury incurred in, or aggravated*
13 *during, the performance of service in the uniformed services*
14 *shall, at the end of the period that is necessary for the per-*
15 *son to recover from such illness or injury, report to the per-*
16 *son’s employer (in the case of a person described in sub-*
17 *paragraph (A) or (B) of paragraph (1)) or submit an appli-*
18 *cation for reemployment with such employer (in the case*
19 *of a person described in subparagraph (C) or (D) of such*
20 *paragraph). Except as provided in subparagraph (B), such*
21 *period of recovery may not exceed two years.*

22 *“(B) Such two-year period shall be extended by the*
23 *minimum time required to accommodate the circumstances*
24 *beyond such person’s control which make reporting within*

1 *the period specified in subparagraph (A) impossible or un-*
2 *reasonable.*

3 “(3) *A person who fails to report or apply for employ-*
4 *ment or reemployment within the appropriate period speci-*
5 *fied in this subsection shall not automatically forfeit such*
6 *person’s entitlement to the rights and benefits referred to*
7 *in subsection (a) but shall be subject to the conduct rules,*
8 *established policy, and general practices of the employer*
9 *pertaining to explanations and discipline with respect to*
10 *absence from scheduled work.*

11 “(f)(1) *A person who submits an application for reem-*
12 *ployment in accordance with subparagraph (C) or (D) of*
13 *subsection (e)(1) or subsection (e)(2) shall provide to the*
14 *person’s employer (upon the request of such employer) docu-*
15 *mentation to establish that—*

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

17 “(B) *the person has not exceeded the service limi-*
18 *tations set forth in subsection (a)(2) (except as per-*
19 *mitted under subsection (c)); and*

20 “(C) *the person’s entitlement to the benefits*
21 *under this chapter has not been terminated pursuant*
22 *to section 4304.*

23 “(2) *Documentation of any matter referred to in para-*
24 *graph (1) that satisfies regulations prescribed by the Sec-*

1 *retary shall satisfy the documentation requirements in such*
2 *paragraph.*

3 “(3)(A) *Except as provided in subparagraph (B), the*
4 *failure of a person to provide documentation that satisfies*
5 *regulations prescribed pursuant to paragraph (2) shall not*
6 *be a basis for denying reemployment in accordance with*
7 *the provisions of this chapter if the failure occurs because*
8 *such documentation does not exist or is not readily avail-*
9 *able at the time of the request of the employer. If, after such*
10 *reemployment, documentation becomes available that estab-*
11 *lishes that such person does not meet one or more of the*
12 *requirements referred to in subparagraphs (A), (B), and (C)*
13 *of paragraph (1), the employer of such person may termi-*
14 *nate the employment of the person and the provision of any*
15 *rights or benefits afforded the person under this chapter.*

16 “(B) *An employer who reemploys a person absent from*
17 *a position of employment for more than 90 days may re-*
18 *quire that the person provide the employer with the docu-*
19 *mentation referred to in subparagraph (A) before beginning*
20 *to treat the person as not having incurred a break in service*
21 *for pension purposes under section 4318(a)(2)(A).*

22 “(4) *An employer may not delay or attempt to defeat*
23 *a reemployment obligation by demanding documentation*
24 *that does not then exist or is not then readily available.*

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

6 “(h) In any determination of a person’s entitlement
7 to protection under this chapter, the timing, frequency, and
8 duration of the person’s training or service, or the nature
9 of such training or service (including voluntary service) in
10 the uniformed services, shall not be a basis for denying pro-
11 tection of this chapter if the service does not exceed the limi-
12 tations set forth in subsection (c) and the notice require-
13 ments established in subsection (a)(1) and the notification
14 requirements established in subsection (e) are met.

15 **“§ 4313. Reemployment positions**

16 “(a) Subject to subsection (b) (in the case of any em-
17 ployee) and sections 4314 and 4315 (in the case of an em-
18 ployee of the Federal Government), a person entitled to re-
19 employment under section 4312, upon completion of a pe-
20 riod of service in the uniformed services, shall be promptly
21 reemployed in a position of employment in accordance with
22 the following order of priority:

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

1 “(A) in the position of employment in
2 which the person would have been employed if
3 the continuous employment of such person with
4 the employer had not been interrupted by such
5 service, the duties of which the person is quali-
6 fied to perform; or

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

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

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

24 “(B) in the position of employment in
25 which the person was employed on the date of the

1 *commencement of the service in the uniformed*
2 *services, or a position of like seniority, status*
3 *and pay, the duties of which the person is quali-*
4 *fied to perform, only if the person is not quali-*
5 *fied to perform the duties of a position referred*
6 *to in subparagraph (A) after reasonable efforts*
7 *by the employer to qualify the person.*

8 “(3) *In the case of a person who has a disability*
9 *incurred in, or aggravated during, such service, and*
10 *who (after reasonable efforts by the employer to ac-*
11 *commodate the disability) is not qualified due to such*
12 *disability to be employed in the position of employ-*
13 *ment in which the person would have been employed*
14 *if the continuous employment of such person with the*
15 *employer had not been interrupted by such service—*

16 “(A) *in any other position which is equiva-*
17 *lent in seniority, status, and pay, the duties of*
18 *which the person is qualified to perform or*
19 *would become qualified to perform with reason-*
20 *able efforts by the employer; or*

21 “(B) *if not employed under subparagraph*
22 *(A), in a position which is the nearest approxi-*
23 *mation to a position referred to in subparagraph*
24 *(A) in terms of seniority, status, and pay con-*
25 *sistent with circumstances of such person’s case.*

1 “(4) In the case of a person who (A) is not quali-
2 fied to be employed in (i) the position of employment
3 in which the person would have been employed if the
4 continuous employment of such person with the em-
5 ployer had not been interrupted by such service, or
6 (ii) in the position of employment in which such per-
7 son was employed on the date of the commencement
8 of the service in the uniform services for any reason
9 (other than disability incurred in, or aggravated dur-
10 ing, service in the uniformed services), and (B) can-
11 not become qualified with reasonable efforts by the
12 employer, in any other position of lesser status and
13 pay which such person is qualified to perform, with
14 full seniority.

15 “(b)(1) If two or more persons are entitled to reemploy-
16 ment under section 4312 in the same position of employ-
17 ment and more than one of them has reported for such reem-
18 ployment, the person who left the position first shall have
19 the prior right to reemployment in that position.

20 “(2) Any person entitled to reemployment under sec-
21 tion 4312 who is not reemployed in a position of employ-
22 ment by reason of paragraph (1) shall be entitled to be re-
23 employed as follows:

24 “(A) Except as provided in subparagraph (B),
25 in any other position of employment referred to in

1 *subsection (a)(1) or (a)(2), as the case may be (in the*
2 *order of priority set out in the applicable subsection),*
3 *that provides a similar status and pay to a position*
4 *of employment referred to in paragraph (1) of this*
5 *subsection, consistent with the circumstances of such*
6 *person's case, with full seniority.*

7 *“(B) In the case of a person who has a disability*
8 *incurred in, or aggravated during, a period of service*
9 *in the uniformed services that requires reasonable ef-*
10 *forts by the employer for the person to be able to per-*
11 *form the duties of the position of employment, in any*
12 *other position referred to in subsection (a)(3) (in the*
13 *order of priority set out in that subsection) that pro-*
14 *vides a similar status and pay to a position referred*
15 *to in paragraph (1) of this subsection, consistent with*
16 *circumstances of such person's case, with full senior-*
17 *ity.*

18 **“§ 4314. Reemployment by the Federal Government**

19 *“(a) Except as provided in subsections (b), (c), and*
20 *(d), if a person is entitled to reemployment by the Federal*
21 *Government under section 4312, such person shall be reem-*
22 *ployed in a position of employment as described in section*
23 *4313.*

24 *“(b)(1) If the Director of the Office of Personnel Man-*
25 *agement makes a determination described in paragraph (2)*

1 *with respect to a person who was employed by a Federal*
2 *executive agency at the time the person entered the service*
3 *from which the person seeks reemployment under this sec-*
4 *tion, the Director shall—*

5 “(A) *identify a position of like seniority, status,*
6 *and pay at another Federal executive agency that sat-*
7 *isfies the requirements of section 4313 and for which*
8 *the person is qualified; and*

9 “(B) *ensure that the person is offered such posi-*
10 *tion.*

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

14 “(A) *the Federal executive agency that employed*
15 *the person referred to in such paragraph no longer ex-*
16 *ists and the functions of such agency have not been*
17 *transferred to another Federal executive agency; or*

18 “(B) *it is impossible or unreasonable for the*
19 *agency to reemploy the person.*

20 “(c) *If the employer of a person described in subsection*
21 *(a) was, at the time such person entered the service from*
22 *which such person seeks reemployment under this section,*
23 *a part of the judicial branch or the legislative branch of*
24 *the Federal Government, and such employer determines that*
25 *it is impossible or unreasonable for such employer to reem-*

1 *ploy such person, such person shall, upon application to*
2 *the Director of the Office of Personnel Management, be en-*
3 *ured an offer of employment in an alternative position in*
4 *a Federal executive agency on the basis described in sub-*
5 *section (b).*

6 “(d) *If the adjutant general of a State determines that*
7 *it is impossible or unreasonable to reemploy a person who*
8 *was a National Guard technician employed under section*
9 *709 of title 32, such person shall, upon application to the*
10 *Director of the Office of Personnel Management, be ensured*
11 *an offer of employment in an alternative position in a Fed-*
12 *eral executive agency on the basis described in subsection*
13 *(b).*

14 **“§ 4315. Reemployment by certain Federal agencies**

15 “(a) *The head of each agency referred to in section*
16 *2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for en-*
17 *sureing that the rights under this chapter apply to the em-*
18 *ployees of such agency.*

19 “(b) *In prescribing procedures under subsection (a),*
20 *the head of an agency referred to in that subsection shall*
21 *ensure, to the maximum extent practicable, that the proce-*
22 *dures of the agency for reemploying persons who serve in*
23 *the uniformed services provide for the reemployment of such*
24 *persons in the agency in a manner similar to the manner*
25 *of reemployment described in section 4313.*

1 “(c)(1) The procedures prescribed under subsection (a)
2 shall designate an official at the agency who shall determine
3 whether or not the reemployment of a person referred to
4 in subsection (b) by the agency is impossible or unreason-
5 able.

6 “(2) Upon making a determination that the reemploy-
7 ment by the agency of a person referred to in subsection
8 (b) is impossible or unreasonable, the official referred to in
9 paragraph (1) shall notify the person and the Director of
10 the Office of Personnel Management of such determination.

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

13 “(4) The head of each agency referred to in subsection
14 (a) shall submit to the Select Committee on Intelligence and
15 the Committee on Veterans’ Affairs of the Senate and the
16 Permanent Select Committee on Intelligence and the Com-
17 mittee on Veterans’ Affairs of the House of Representatives
18 on an annual basis a report on the number of persons whose
19 reemployment with the agency was determined under this
20 subsection to be impossible or unreasonable during the year
21 preceding the report, including the reason for each such de-
22 termination.

23 “(d)(1) Except as provided in this section, nothing in
24 this section, section 4313, or section 4325 shall be construed
25 to exempt any agency referred to in subsection (a) from

1 *compliance with any other substantive provision of this*
2 *chapter.*

3 “(2) *This section may not be construed—*

4 “(A) *as prohibiting an employee of an agency re-*
5 *ferred to in subsection (a) from seeking information*
6 *from the Secretary regarding assistance in seeking re-*
7 *employment from the agency under this chapter, al-*
8 *ternative employment in the Federal Government*
9 *under this chapter, or information relating to the*
10 *rights and obligations of employee and Federal agen-*
11 *cies under this chapter; or*

12 “(B) *as prohibiting such an agency from volun-*
13 *tarily cooperating with or seeking assistance in or of*
14 *clarification from the Secretary or the Director of the*
15 *Office of Personnel Management of any matter aris-*
16 *ing under this chapter.*

17 “(e) *The Director of the Office of Personnel Manage-*
18 *ment shall ensure the offer of employment to a person in*
19 *a position in a Federal executive agency on the basis de-*
20 *scribed in subsection (b) if—*

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

1 “(2) the appropriate officer of the agency deter-
2 mines under subsection (c) that reemployment of the
3 person by the agency is impossible or unreasonable;
4 and

5 “(3) the person submits an application to the
6 Director for an offer of employment under this sub-
7 section.

8 **“§4316. Rights, benefits, and obligations of persons**
9 **absent from employment for service in a**
10 **uniformed service**

11 “(a) A person who is reemployed under this chapter
12 is entitled to the seniority and other rights and benefits de-
13 termined by seniority that the person had on the date of
14 the commencement of service in the uniformed services plus
15 the additional seniority and rights and benefits that such
16 person would have attained if the person had remained con-
17 tinuously employed.

18 “(b)(1) Subject to paragraphs (2) through (6), a person
19 who is absent from a position of employment by reason of
20 service in the uniformed services shall be—

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

23 “(B) entitled to such other rights and benefits
24 not determined by seniority as are generally provided
25 by the employer of the person to employees having

1 *similar seniority, status, and pay who are on fur-*
2 *lough or leave of absence under a contract, agreement,*
3 *policy, practice, or plan in effect at the commence-*
4 *ment of such service or established while such person*
5 *performs such service.*

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

7 “(i) is absent from a position of employment by
8 *reason of service in the uniformed services, and*

9 “(ii) knowingly provides written notice of intent
10 *not to return to a position of employment after serv-*
11 *ice in the uniformed service,*

12 *is not entitled to rights and benefits under paragraph*
13 *(1)(B).*

14 “(B) For the purposes of subparagraph (A), the em-
15 *ployer shall have the burden of proving that a person know-*
16 *ingly provided clear written notice of intent not to return*
17 *to a position of employment after service in the uniformed*
18 *service and, in doing so, was aware of the specific rights*
19 *and benefits to be lost under subparagraph (A).*

20 “(3) A person deemed to be on furlough or leave of
21 *absence under this subsection while serving in the uni-*
22 *formed services shall not be entitled under this subsection*
23 *to any benefits to which the person would not otherwise be*
24 *entitled if the person had remained continuously employed.*

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

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

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

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

13 “(1) within one year after the date of such reem-
14 ployment, if the person’s period of service before the
15 reemployment was more than 180 days; or

16 “(2) within 180 days after the date of such reem-
17 ployment, if the person’s period of service before the
18 reemployment was more than 30 days but less than
19 181 days.

20 “(d) Any person whose employment with an employer
21 is interrupted by a period of service in the uniformed serv-
22 ices shall be permitted, upon request of that person, to use
23 during such period of service any vacation, annual, or simi-
24 lar leave with pay accrued by the person before the com-
25 mencement of such service.

1 **“§ 4317. Health plans**

2 “(a)(1)(A) Subject to paragraphs (2) and (3), in any
3 case in which a person (or the person’s dependents) has cov-
4 erage under a health plan in connection with the person’s
5 position of employment, including a group health plan (as
6 defined in section 607(1) of the Employee Retirement In-
7 come Security Act of 1974), and such person is absent from
8 such position of employment by reason of service in the uni-
9 formed services, the plan shall provide that the person may
10 elect to continue such coverage as provided in this sub-
11 section. The maximum period of coverage of a person and
12 the person’s dependents under such an election shall be the
13 lesser of—

14 “(i) the 18-month period beginning on the date
15 on which the person’s absence begins; or

16 “(ii) the day after the date on which the person
17 fails to apply for or return to a position of employ-
18 ment, as determined under section 4312(e).

19 “(B) A person who elects to continue health-plan cov-
20 erage under this paragraph may be required to pay not
21 more than 102 percent of the full premium under the plan
22 (determined in the same manner as the applicable premium
23 under section 4980B(f)(4) of the Internal Revenue Code of
24 1986) associated with such coverage for the employer’s other
25 employees, except that in the case of a person who performs
26 service in the uniformed services for less than 31 days, such

1 *person may not be required to pay more than the employee*
2 *share, if any, for such coverage.*

3 “(C) *In the case of a health plan that is a multiem-*
4 *ployer plan, as defined in section 3(37) of the Employee*
5 *Retirement Income Security Act of 1974, any liability*
6 *under the plan for employer contributions and benefits aris-*
7 *ing under this paragraph shall be allocated—*

8 “(i) *by the plan in such manner as the plan*
9 *sponsor shall provide; or*

10 “(ii) *if the sponsor does not provide—*

11 “(I) *to the last employer employing the per-*
12 *son before the period served by the person in the*
13 *uniformed services, or*

14 “(II) *if such last employer is no longer*
15 *functional, to the plan.*

16 “(b)(1) *Except as provided in paragraph (2), in the*
17 *case of a person whose coverage under a health plan was*
18 *terminated by reason of service in the uniformed services,*
19 *an exclusion or waiting period may not be imposed in con-*
20 *nection with the reinstatement of such coverage upon reem-*
21 *ployment under this chapter if an exclusion or waiting pe-*
22 *riod would not have been imposed under health plan had*
23 *coverage of such person by such plan not been terminated*
24 *as a result of such service. This paragraph applies to the*
25 *person who is reemployed and to any individual who is*

1 covered by such plan by reason of the reinstatement of the
2 coverage of such person.

3 “(2) Paragraph (1) shall not apply to the coverage of
4 any illness or injury determined by the Secretary of Veter-
5 ans Affairs to have been incurred in, or aggravated during,
6 performance of service in the uniformed services.

7 **“§ 4318. Employee pension benefit plans**

8 “(a)(1)(A) Except as provided in subparagraph (B),
9 in the case of a right provided pursuant to an employee
10 pension benefit plan (including those described in sections
11 3(2) and 3(33) of the Employee Retirement Income Secu-
12 rity Act of 1974) or a right provided under any Federal
13 or State law governing pension benefits for governmental
14 employees, the right to pension benefits of a person reem-
15 ployed under this chapter shall be determined under this
16 section.

17 “(B) In the case of benefits under the Thrift Savings
18 Plan, the rights of a person reemployed under this chapter
19 shall be those rights provided in section 8432b of title 5.
20 The first sentence of this subparagraph shall not be con-
21 strued to affect any other right or benefit under this
22 chapter.

23 “(2)(A) A person reemployed under this chapter shall
24 be treated as not having incurred a break in service with
25 the employer or employers maintaining the plan by reason

1 of such person's period or periods of service in the uni-
2 formed services.

3 “(B) Each period served by a person in the uniformed
4 services shall, upon reemployment under this chapter, be
5 deemed to constitute service with the employer or employers
6 maintaining the plan for the purpose of determining the
7 nonforfeitability of the person's accrued benefits and for the
8 purpose of determining the accrual of benefits under the
9 plan.

10 “(b)(1) An employer reemploying a person under this
11 chapter shall, with respect to a period of service described
12 in subsection (a)(2)(B), be liable to an employee pension
13 benefit plan for funding any obligation of the plan to pro-
14 vide the benefits described in subsection (a)(2) and shall al-
15 locate the amount of any employer contribution for the per-
16 son in the same manner and to the same extent the alloca-
17 tion occurs for other employees during the period of service.
18 For purposes of determining the amount of such liability
19 and any obligation of the plan, earnings and forfeitures
20 shall not be included. For purposes of determining the
21 amount of such liability and for purposes of section 515
22 of the Employee Retirement Income Security Act of 1974
23 or any similar Federal or State law governing pension ben-
24 efits for governmental employees, service in the uniformed
25 services that is deemed under subsection (a) to be service

1 *with the employer shall be deemed to be service with the*
2 *employer under the terms of the plan or any applicable col-*
3 *lective bargaining agreement. In the case of a multiem-*
4 *ployer plan, as defined in section 3(37) of the Employee*
5 *Retirement Income Security Act of 1974, any liability of*
6 *the plan described in this paragraph shall be allocated—*

7 “(A) *by the plan in such manner as the sponsor*
8 *maintaining the plan shall provide; or*

9 “(B) *if the sponsor does not provide—*

10 “(i) *to the last employer employing the per-*
11 *son before the period served by the person in the*
12 *uniformed services, or*

13 “(ii) *if such last employer is no longer func-*
14 *tional, to the plan.*

15 “(2) *A person reemployed under this chapter shall be*
16 *entitled to accrued benefits pursuant to subsection (a) that*
17 *are contingent on the making of, or derived from, employee*
18 *contributions or elective deferrals (as defined in section*
19 *402(g)(3) of the Internal Revenue Code of 1986) only to*
20 *the extent the person makes payment to the plan with re-*
21 *spect to such contributions or deferrals. No such payment*
22 *may exceed the amount the person would have been per-*
23 *mitted or required to contribute had the person remained*
24 *continuously employed by the employer throughout the pe-*
25 *riod of service described in subsection (a)(2)(B). Any pay-*

1 *ment to the plan described in this paragraph shall be made*
2 *during the period beginning with the date of reemployment*
3 *and whose duration is three times the period of the person's*
4 *service in the uniformed services, not to exceed five years.*

5 *“(3) For purposes of computing an employer's liability*
6 *under paragraph (1) or the employee's contributions under*
7 *paragraph (2), the employee's compensation during the pe-*
8 *riod of service described in subsection (a)(2)(B) shall be*
9 *computed—*

10 *“(A) at the rate the employee would have re-*
11 *ceived but for the period of service described in sub-*
12 *section (a)(2)(B), or*

13 *“(B) in the case that the determination of such*
14 *rate is not reasonably certain, on the basis of the em-*
15 *ployee's average rate of compensation during the 12-*
16 *month period immediately preceding such period (or,*
17 *if shorter, the period of employment immediately pre-*
18 *ceding such period).*

19 *“(c) Any employer who reemploys a person under this*
20 *chapter and who is an employer contributing to a multiem-*
21 *ployer plan, as defined in section 3(37) of the Employee*
22 *Retirement Income Security Act of 1974, under which bene-*
23 *fits are or may be payable to such person by reason of the*
24 *obligations set forth in this chapter, shall, within 30 days*
25 *after the date of such reemployment, provide information,*

1 *in writing, of such reemployment to the administrator of*
2 *such plan.*

3 *“SUBCHAPTER III—PROCEDURES FOR ASSIST-*
4 *ANCE, ENFORCEMENT, AND INVESTIGATION*

5 ***“§4321. Assistance in obtaining reemployment or***
6 ***other employment rights or benefits***

7 *“The Secretary (through the Veterans’ Employment*
8 *and Training Service) shall provide assistance to any per-*
9 *son with respect to the employment and reemployment*
10 *rights and benefits to which such person is entitled under*
11 *this chapter. In providing such assistance, the Secretary*
12 *may request the assistance of existing Federal and State*
13 *agencies engaged in similar or related activities and utilize*
14 *the assistance of volunteers.*

15 ***“§4322. Enforcement of employment or reemployment***
16 ***rights***

17 *“(a) A person who claims that—*

18 *“(1) such person is entitled under this chapter to*
19 *employment or reemployment rights or benefits with*
20 *respect to employment by an employer; and*

21 *“(2)(A) such employer has failed or refused, or*
22 *is about to fail or refuse, to comply with the provi-*
23 *sions of this chapter; or*

24 *“(B) in the case that the employer is a Federal*
25 *executive agency, such employer or the Office of Per-*

1 *sonnel Management has failed or refused, or is about*
2 *to fail or refuse, to comply with the provisions of this*
3 *chapter,*

4 *may file a complaint with the Secretary in accordance with*
5 *subsection (b), and the Secretary shall investigate such com-*
6 *plaint.*

7 *“(b) Such complaint shall be in writing, be in such*
8 *form as the Secretary may prescribe, include the name and*
9 *address of the employer against whom the complaint is*
10 *filed, and contain a summary of the allegations that form*
11 *the basis for the complaint.*

12 *“(c) The Secretary shall, upon request, provide tech-*
13 *nical assistance to a potential claimant with respect to a*
14 *complaint under this subsection, and when appropriate, to*
15 *such claimant’s employer.*

16 *“(d) The Secretary shall investigate each complaint*
17 *submitted pursuant to subsection (a). If the Secretary deter-*
18 *mines as a result of the investigation that the action alleged*
19 *in such complaint occurred, the Secretary shall resolve the*
20 *complaint by making reasonable efforts to ensure that the*
21 *person or entity named in the complaint complies with the*
22 *provisions of this chapter.*

23 *“(e) If the efforts of the Secretary with respect to a*
24 *complaint under subsection (d) are unsuccessful, the Sec-*

1 *retary shall notify the person who submitted the complaint*
2 *of—*

3 *“(1) the results of the Secretary’s investigation;*
4 *and*

5 *“(2) the complainant’s entitlement to proceed*
6 *under the enforcement of rights provisions provided*
7 *under section 4323 (in the case of a person submit-*
8 *ting a complaint against a State or private em-*
9 *ployer) or section 4324 (in the case of a person sub-*
10 *mitting a complaint against a Federal executive*
11 *agency).*

12 *“(f) This subchapter does not apply to any action re-*
13 *lating to benefits to be provided under the Thrift Savings*
14 *Plan under title 5.*

15 ***“§ 4323. Enforcement of rights with respect to a State***
16 ***or private employer***

17 *“(a)(1) A person who receives from the Secretary a no-*
18 *tification pursuant to section 4322(e) of an unsuccessful ef-*
19 *fort to resolve a complaint relating to a State (as an em-*
20 *ployer) or a private employer may request that the Sec-*
21 *retary refer the complaint to the Attorney General. If the*
22 *Attorney General is reasonably satisfied that the person on*
23 *whose behalf the complaint is referred is entitled to the*
24 *rights or benefits sought, the Attorney General may appear*
25 *on behalf of, and act as attorney for, the person on whose*

1 *behalf the complaint is submitted and commence an action*
2 *for appropriate relief for such person in an appropriate*
3 *United States district court.*

4 “(2) *A person may commence an action for relief with*
5 *respect to a complaint if that person—*

6 “(A) *has chosen not to apply to the Secretary for*
7 *assistance regarding the complaint under section*
8 *4322(c);*

9 “(B) *has chosen not to request that the Secretary*
10 *refer the complaint to the Attorney General under*
11 *paragraph (1); or*

12 “(C) *has been refused representation by the At-*
13 *torney General with respect to the complaint under*
14 *such paragraph.*

15 “(b) *In the case of an action against a State as an*
16 *employer, the appropriate district court is the court for any*
17 *district in which the State exercises any authority or car-*
18 *ries out any function. In the case of a private employer*
19 *the appropriate district court is the district court for any*
20 *district in which the private employer of the person main-*
21 *tains a place of business.*

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

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

3 “(ii) to require the employer to compensate the
4 person for any loss of wages or benefits suffered by
5 reason of such employer’s failure to comply with the
6 provisions of this chapter; and

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

12 “(B) Any compensation under clauses (ii) and (iii)
13 of subparagraph (A) shall be in addition to, and shall not
14 diminish, any of the other rights and benefits provided for
15 in this chapter.

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

18 “(B) In any action or proceeding to enforce a provi-
19 sion of this chapter by a person under subsection (a)(2) who
20 obtained private counsel for such action or proceeding, the
21 court may award any such person who prevails in such
22 action or proceeding reasonable attorney fees, expert witness
23 fees, and other litigation expenses.

24 “(3) The court may use its full equity powers, includ-
25 ing temporary or permanent injunctions, temporary re-

1 *under paragraph (1) is entitled to the rights or benefits*
2 *sought, the Special Counsel (upon the request of the person*
3 *submitting the complaint) may appear on behalf of, and*
4 *act as attorney for, the person and initiate an action re-*
5 *garding such complaint before the Merit Systems Protection*
6 *Board.*

7 *“(B) If the Special Counsel declines to initiate an ac-*
8 *tion and represent a person before the Merit Systems Pro-*
9 *tection Board under subparagraph (A), the Special Counsel*
10 *shall notify such person of that decision.*

11 *“(b) A person may submit a complaint against a Fed-*
12 *eral executive agency under this subchapter directly to the*
13 *Merit Systems Protection Board if that person—*

14 *“(1) has chosen not to apply to the Secretary for*
15 *assistance regarding a complaint under section*
16 *4322(c);*

17 *“(2) has received a notification from the Sec-*
18 *retary under section 4322(e);*

19 *“(3) has chosen not to be represented before the*
20 *Board by the Special Counsel pursuant to subsection*
21 *(a)(2)(A); or*

22 *“(4) has received a notification of a decision*
23 *from the Special Counsel under subsection (a)(2)(B).*

24 *“(c)(1) The Merit Systems Protection Board shall ad-*
25 *judicate any complaint brought before the Board pursuant*

1 to subsection (a)(2)(A) or (b). A person who seeks a hearing
2 or adjudication by submitting such a complaint under this
3 paragraph may be represented at such hearing or adjudica-
4 tion in accordance with the rules of the Board.

5 “(2) If the Board determines that a Federal executive
6 agency has not complied with the provisions of this chapter
7 relating to the employment or reemployment of a person
8 by the agency, the Board shall enter an order requiring the
9 agency or employee to comply with such provisions and to
10 compensate such person for any loss of wages or benefits
11 suffered by such person by reason of such lack of compli-
12 ance.

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

17 “(4) If the Board determines as a result of a hearing
18 or adjudication conducted pursuant to a complaint submit-
19 ted by a person directly to the Board pursuant to subsection
20 (b) that such person is entitled to an order referred to in
21 paragraph (2), the Board may, in its discretion, award
22 such person reasonable attorney fees, expert witness fees,
23 and other litigation expenses.

24 “(d)(1) A person adversely affected or aggrieved by a
25 final order or decision of the Merit Systems Protection

1 Board under subsection (c) may petition the United States
2 Court of Appeals for the Federal Circuit to review the final
3 order or decision. Such petition and review shall be in ac-
4 cordance with the procedures set forth in section 7703 of
5 title 5.

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

10 **“§ 4325. Enforcement of rights with respect to certain**
11 **Federal agencies**

12 “(a) This section applies to any person who alleges
13 that—

14 “(1) the reemployment of such person by an
15 agency referred to in subsection (a) of section 4315
16 was not in accordance with procedures for the reem-
17 ployment of such person under subsection (b) of such
18 section; or

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

21 “(b) Any person referred to in subsection (a) may sub-
22 mit a claim relating to an allegation referred to in that
23 subsection to the inspector general of the agency which is
24 the subject of the allegation. The inspector general shall in-

1 *investigate and resolve the allegation pursuant to procedures*
2 *prescribed by the head of the agency.*

3 “(c) *In prescribing procedures for the investigation*
4 *and resolution of allegations under subsection (b), the head*
5 *of an agency shall ensure, to the maximum extent prac-*
6 *ticable, that the procedures are similar to the procedures*
7 *for investigating and resolving complaints utilized by the*
8 *Secretary under section 4322(d).*

9 “(d) *This section may not be construed—*

10 “(1) *as prohibiting an employee of an agency re-*
11 *ferred to in subsection (a) from seeking information*
12 *from the Secretary regarding assistance in seeking re-*
13 *employment from the agency under this chapter, al-*
14 *ternative employment in the Federal Government*
15 *under this chapter, or information relating to the*
16 *rights and obligations of employee and Federal agen-*
17 *cies under this chapter; or*

18 “(2) *as prohibiting such an agency from volun-*
19 *tarily cooperating with or seeking assistance in or of*
20 *clarification from the Secretary or the Director of the*
21 *Office of Personnel Management of any matter aris-*
22 *ing under this chapter.*

23 **“§ 4326. Conduct of investigation; subpoenas**

24 “(a) *In carrying out any investigation under this*
25 *chapter, the Secretary’s duly authorized representatives*

1 *shall, at all reasonable times, have reasonable access to, for*
2 *purposes of examination, and the right to copy and receive,*
3 *any documents of any person or employer that the Sec-*
4 *retary considers relevant to the investigation.*

5 “(b) *In carrying out any investigation under this*
6 *chapter, the Secretary may require by subpoena the attend-*
7 *ance and testimony of witnesses and the production of docu-*
8 *ments relating to any matter under investigation. In case*
9 *of disobedience of the subpoena or contumacy and on request*
10 *of the Secretary, the Attorney General may apply to any*
11 *district court of the United States in whose jurisdiction*
12 *such disobedience or contumacy occurs for an order enforc-*
13 *ing the subpoena.*

14 “(c) *Upon application, the district courts of the United*
15 *States shall have jurisdiction to issue writs commanding*
16 *any person or employer to comply with the subpoena of the*
17 *Secretary or to comply with any order of the Secretary*
18 *made pursuant to a lawful investigation under this chapter*
19 *and the district courts shall have jurisdiction to punish fail-*
20 *ure to obey a subpoena or other lawful order of the Sec-*
21 *retary as a contempt of court.*

22 “(d) *Subsections (b) and (c) shall not apply to the leg-*
23 *islative branch or the judicial branch of the United States.*

1 “SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

2 “§ 4331. **Regulations**

3 “(a) *The Secretary (in consultation with the Secretary*
4 *of Defense) may prescribe regulations implementing the*
5 *provisions of this chapter with regard to the application*
6 *of this chapter to States, local governments, and private em-*
7 *ployers.*

8 “(b)(1) *The Director of the Office of Personnel Manage-*
9 *ment (in consultation with the Secretary and the Secretary*
10 *of Defense) may prescribe regulations implementing the*
11 *provisions of this chapter with regard to the application*
12 *of this chapter to Federal executive agencies (other than the*
13 *agencies referred to in paragraph (2)) as employers. Such*
14 *regulations shall be consistent with the regulations pertain-*
15 *ing to the States as employers and private employers, except*
16 *that employees of the Federal Government may be given*
17 *greater or additional rights.*

18 “(2) *The following entities may prescribe regulations*
19 *to carry out the activities of such entities under this chap-*
20 *ter:*

21 “(A) *The Merit Systems Protection Board.*

22 “(B) *The Office of Special Counsel.*

23 “(C) *The agencies referred to in section*
24 *2303(a)(2)(C)(ii) of title 5.*

1 **“§ 4332. Reports**

2 *“The Secretary shall, after consultation with the Attor-*
3 *ney General and the Special Counsel referred to in section*
4 *4324(a)(1) and no later than February 1, 1996, and annu-*
5 *ally thereafter through 2000, transmit to the Congress, a*
6 *report containing the following matters for the fiscal year*
7 *ending before such February 1:*

8 *“(1) The number of cases reviewed by the De-*
9 *partment of Labor under this chapter during the fis-*
10 *cal year for which the report is made.*

11 *“(2) The number of cases referred to the Attorney*
12 *General or the Special Counsel pursuant to section*
13 *4323 or 4324, respectively, during such fiscal year.*

14 *“(3) The number of complaints filed by the At-*
15 *torney General pursuant to section 4323 during such*
16 *fiscal year.*

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

19 *“(5) An indication of whether there are any ap-*
20 *parent patterns of violation of the provisions of this*
21 *chapter, together with an explanation thereof.*

22 *“(6) Recommendations for administrative or leg-*
23 *islative action that the Secretary, the Attorney Gen-*
24 *eral, or the Special Counsel considers necessary for*
25 *the effective implementation of this chapter, including*
26 *any action that could be taken to encourage medi-*

1 *ation, before claims are filed under this chapter, be-*
 2 *tween employers and persons seeking employment or*
 3 *reemployment.*

4 **“§ 4333. Outreach**

5 *“The Secretary, the Secretary of Defense, and the Sec-*
 6 *retary of Veterans Affairs shall take such actions as such*
 7 *Secretaries determine are appropriate to inform persons en-*
 8 *titled to rights and benefits under this chapter and employ-*
 9 *ers of the rights, benefits, and obligations of such persons*
 10 *and such employers under this chapter.”.*

11 *(b) CONFORMING AMENDMENTS.—*

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

**“43. Employment and reemployment rights of members of
 the uniformed services 4301”.**

17 *(2) AMENDMENT TO TITLE 5.—(A) Section*
 18 *1204(a)(1) of title 5, United States Code, is amended*
 19 *by striking out “section 4323” and inserting in lieu*
 20 *thereof “chapter 43”.*

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

23 *(C) The table of sections for chapter 35 of such*
 24 *title is amended by striking out the heading relating*

1 *to subchapter II of such chapter and the item relating*
2 *to section 3551 of such chapter.*

3 (3) *AMENDMENT TO TITLE 10.—Section 706(c)(1)*
4 *of title 10, United States Code, is amended by strik-*
5 *ing out “section 4321” and inserting in lieu thereof*
6 *“chapter 43”.*

7 (c) *AMENDMENTS TO TITLE 28.—Section 631 of title*
8 *28, United States Code, is amended—*

9 (1) *by striking out subsection (j);*

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

12 (3) *in subsection (j), as redesignated by para-*
13 *graph (2), by striking out “under the terms of” and*
14 *all that follows through “section,” the first place it*
15 *appears and inserting in lieu thereof “under chapter*
16 *43 of title 38.”*

17 **SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIRE-**
18 **MENTS.**

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

21 (1) *by striking out “or” at the end of subpara-*
22 *graph (E);*

23 (2) *by striking out the period at the end of sub-*
24 *paragraph (F) and inserting in lieu thereof “; or”;*
25 *and*

1 (3) by adding at the end thereof the following
2 new subparagraph:

3 “(G) to benefits under chapter 43 of this title.”.

4 **SEC. 4. THRIFT SAVINGS PLAN.**

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

7 **“§ 8432b. Contributions of persons who perform mili-**
8 **tary service**

9 “(a) This section applies to any employee who—

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

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

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

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

21 “(A) the contributions under section 8432(a)
22 which would have been made, over the period begin-
23 ning on date of separation or commencement of leave-
24 without-pay status (as applicable) and ending on the

1 *day before the date of restoration or reemployment (as*
2 *applicable); reduced by*

3 *“(B) any contributions under section 8432(a) ac-*
4 *tually made by such employee over the period de-*
5 *scribed in subparagraph (A).*

6 *“(3) Contributions under this subsection—*

7 *“(A) shall be made at the same time and in the*
8 *same manner as would any contributions under sec-*
9 *tion 8432(a);*

10 *“(B) shall be made over the period of time speci-*
11 *fied by the employee under paragraph (4)(B); and*

12 *“(C) shall be in addition to any contributions*
13 *then actually being made under section 8432(a).*

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

16 *“(A) the total amount such employee wishes to*
17 *contribute under this subsection with respect to any*
18 *particular period referred to in paragraph (2)(B);*
19 *and*

20 *“(B) the period of time over which the employee*
21 *wishes to make contributions under this subsection.*

22 *The employing agency may place a maximum limit on the*
23 *period of time referred to in subparagraph (B), which can-*
24 *not be shorter than two times the period referred to in para-*
25 *graph (2)(B) and not longer than four times such period.*

1 “(c) If an employee makes contributions under sub-
2 section (b), the employing agency shall make contributions
3 to the Thrift Savings Fund on such employee’s behalf—

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

7 “(2) disregarding any contributions then actu-
8 ally being made under section 8432(a) and any agen-
9 cy contributions relating thereto.

10 “(d) An employee to whom this section applies is enti-
11 tled to have contributed to the Thrift Savings Fund on such
12 employee’s behalf an amount equal to—

13 “(1) 1 percent of such employee’s basic pay (as
14 determined under subsection (e)) for the period re-
15 ferred to in subsection (b)(2)(B); reduced by

16 “(2) any contributions actually made on such
17 employee’s behalf under section 8432(c)(1) with re-
18 spect to the period referred to in subsection (b)(2)(B).

19 “(e) For purposes of any computation under this sec-
20 tion, an employee shall, with respect to the period referred
21 to in subsection (b)(2)(B), be considered to have been paid
22 at the rate which would have been payable over such period
23 had such employee remained continuously employed in the
24 position which such employee last held before separating or

1 *entering leave-without-pay status to perform military*
2 *service.*

3 “(f)(1) *The employing agency may be required to pay*
4 *lost earnings on contributions made pursuant to subsections*
5 *(c) and (d). Such earnings, if required, shall be calculated*
6 *retroactively to the date the contribution would have been*
7 *made had the employee not separated or entered leave with-*
8 *out pay status to perform military service.*

9 “(2) *Procedures for calculating and crediting the earn-*
10 *ings payable pursuant to paragraph (1) shall be prescribed*
11 *by the Executive Director.*

12 “(g) *Amounts paid under subsection (c), (d), or (f)*
13 *shall be paid—*

14 “(1) *by the agency to which the employee is re-*
15 *stored or in which such employee is reemployed;*

16 “(2) *from the same source as would be the case*
17 *under section 8432(e) with respect to sums required*
18 *under section 8432(c); and*

19 “(3) *within the time prescribed by the Executive*
20 *Director.*

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

23 “(A) *a separation from civilian service in order*
24 *to perform the military service on which the employ-*

1 *ee's restoration or reemployment rights are based*
2 *shall be disregarded; and*

3 *“(B) such employee shall be credited with a pe-*
4 *riod of civilian service equal to the period referred to*
5 *in subsection (b)(2)(B).*

6 *“(2)(A) An employee to whom this section applies may*
7 *elect, for purposes of section 8433(d), or paragraph (1) or*
8 *(2) of section 8433(h), as the case may be, to have such*
9 *employee's separation (described in subsection (a)(1)) treat-*
10 *ed as if it had never occurred.*

11 *“(B) An election under this paragraph shall be made*
12 *within such period of time after restoration or reemploy-*
13 *ment (as the case may be) and otherwise in such manner*
14 *as the Executive Director prescribes.*

15 *“(i) The Executive Director shall prescribe regulations*
16 *to carry out this section.”.*

17 *(2) The table of sections for chapter 84 of title 5, Unit-*
18 *ed States Code, is amended by inserting after the item relat-*
19 *ing to section 8432a the following:*

“8432b. Contributions of persons who perform military service.”.

20 *(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section*
21 *8433(d) of title 5, United States Code, is amended by strik-*
22 *ing “subsection (e).” and inserting “subsection (e), unless*
23 *an election under section 8432b(h)(2) is made to treat such*
24 *separation for purposes of this subsection as if it had never*
25 *occurred.”.*

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

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

10 “(i)(1) This subsection applies to any employee—

11 “(A) to whom section 8432b applies; and

12 “(B) who, during the period of such employee’s
13 absence from civilian service (as referred to in section
14 8432b(b)(2)(B))—

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

17 “(ii) would be so eligible but for having
18 either elected to terminate individual contribu-
19 tions to the Thrift Savings Fund within 2
20 months before commencing military service or
21 separated in order to perform military service.

22 “(2) The Executive Director shall prescribe regulations
23 to ensure that any employee to whom this subsection applies
24 shall, within a reasonable time after being restored or reem-
25 ployed (in the manner described in section 8432b(a)(2)),

1 *be afforded the opportunity to make, for purposes of this*
2 *section, any election which would be allowable during a pe-*
3 *riod described in subsection (b)(1)(A).”.*

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

7 *“(11) In applying section 8432b to an employee con-*
8 *tributing to the Thrift Savings Fund after being restored*
9 *to or reemployed in a position subject to this subchapter,*
10 *pursuant to chapter 43 of title 38—*

11 *“(A) any reference in such section to contribu-*
12 *tions under section 8432(a) shall be considered a ref-*
13 *erence to employee contributions under this section;*

14 *“(B) the contribution rate under section*
15 *8432b(b)(2)(A) shall be the maximum percentage al-*
16 *lowable under subsection (b)(2) of this section; and*

17 *“(C) subsections (c) and (d) of section 8432b*
18 *shall be disregarded.”.*

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

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

23 *(2) shall apply to any employee whose release*
24 *from military service, discharge from hospitalization,*
25 *or other similar event making the individual eligible*

1 *to seek restoration or reemployment under chapter 43*
2 *of title 38, United States Code, occurs on or after Au-*
3 *gust 2, 1990.*

4 *(f) RULES FOR APPLYING AMENDMENTS TO EMPLOY-*
5 *EES RESTORED OR REEMPLOYED BEFORE EFFECTIVE*
6 *DATE.—In the case of any employee (described in sub-*
7 *section (e)(2)) who is reemployed or restored (in the cir-*
8 *cumstances described in section 8432b(a) of title 5, United*
9 *States Code, as amended by this section) before the date of*
10 *enactment of this Act, the amendments made by this section*
11 *shall apply to such employee, in accordance with their*
12 *terms, subject to the following:*

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

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

16 *(B) the first day following such employee’s*
17 *reemployment or restoration on which such em-*
18 *ployee is or was eligible to make an election re-*
19 *lating to contributions to the Thrift Savings*
20 *Fund,*

21 *whichever occurs or occurred first.*

22 *(2) If the employee changed agencies during the*
23 *period between date of actual reemployment or res-*
24 *toration and the date of enactment of this Act, the*

1 *employing agency as of such date of enactment shall*
2 *be considered the reemploying or restoring agency.*

3 *(3)(A) For purposes of any computation under*
4 *section 8432b of such title, pay shall be determined in*
5 *accordance with subsection (e) of such section, except*
6 *that, with respect to the period described in subpara-*
7 *graph (B), actual pay attributable to such period*
8 *shall be used.*

9 *(B) The period described in this subparagraph is*
10 *the period beginning on the first day of the first ap-*
11 *plicable pay period beginning on or after the date of*
12 *the employee's actual reemployment or restoration*
13 *and ending on the day before the date determined*
14 *under paragraph (1).*

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

21 **SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT**

22 **BENEFIT PROGRAM FOR RESERVISTS.**

23 *(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—*
24 *Section 8331(13) of title 5, United States Code, is amended*
25 *in the flush matter by inserting “or full-time National*

1 *Guard duty (as such term is defined in section 101(d) of*
2 *title 10) if such service interrupts creditable civilian service*
3 *under this subchapter and is followed by reemployment in*
4 *accordance with chapter 43 of title 38 that occurs on or*
5 *after August 1, 1990” before the semicolon.*

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

8 *(1) in paragraph (1)—*

9 *(A) by striking “Each employee” and in-*
10 *serting “(A) Except as provided in subparagraph*
11 *(B), each employee”; and*

12 *(B) by adding at the end the following:*

13 *“(B) In any case where military service inter-*
14 *rupts creditable civilian service under this subchapter*
15 *and reemployment pursuant to chapter 43 of title 38*
16 *occurs on or after August 1, 1990, the deposit payable*
17 *under this paragraph may not exceed the amount*
18 *that would have been deducted and withheld under*
19 *subsection (a)(1) from basic pay during civilian serv-*
20 *ice if the employee had not performed the period of*
21 *military service.”; and*

22 *(2) in paragraph (2), immediately before the*
23 *comma at the end of subparagraph (B), by inserting*
24 *“following the period of military service for which*
25 *such deposit is due”.*

1 (c) *CREDITABLE MILITARY SERVICE UNDER FERS.*—
2 *Section 8401(31) of such title is amended in the flush mat-*
3 *ter by inserting “or full-time National Guard duty (as such*
4 *term is defined in section 101(d) of title 10) if such service*
5 *interrupts creditable civilian service under this subchapter*
6 *and is followed by reemployment in accordance with chap-*
7 *ter 43 of title 38 that occurs on or after August 1, 1990”*
8 *before the semicolon.*

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

11 (1) *in paragraph (1)—*

12 (A) *by striking “Each employee” and in-*
13 *serting “(A) Except as provided in subparagraph*
14 *(B), each employee”; and*

15 (B) *by adding at the end the following:*

16 “(B) *In any case where military service inter-*
17 *rupts creditable civilian service under this subchapter*
18 *and reemployment pursuant to chapter 43 of title 38*
19 *occurs on or after August 1, 1990, the deposit payable*
20 *under this paragraph may not exceed the amount*
21 *that would have been deducted and withheld under*
22 *subsection (a)(1) from basic pay during civilian serv-*
23 *ice if the employee had not performed the period of*
24 *military service.”; and*

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

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

7 (1) *In section 8401(11), by striking out “1954”*
8 *in the flush matter above clause (i) and inserting in*
9 *lieu thereof “1986”.*

10 (2) *In section 8422(a)(2)(A)(ii), by striking out*
11 *“1954” and inserting in lieu thereof “1986”.*

12 (3) *In section 8432(d), by striking out “1954” in*
13 *the first sentence and inserting in lieu thereof “1986”.*

14 (4) *In section 8433(i)(4), by striking out “1954”*
15 *and inserting in lieu thereof “1986”.*

16 (5) *In section 8440—*

17 (A) *by striking out “1954” in subsection (a)*
18 *and inserting in lieu thereof “1986”; and*

19 (B) *by striking out “1954” in subsection (c)*
20 *and inserting in lieu thereof “1986”.*

21 **SEC. 6. TECHNICAL AMENDMENT.**

22 (a) *TECHNICAL AMENDMENT.—Section 9(d) of Public*
23 *Law 102–16 (105 Stat. 55) is amended by striking out*
24 *“Act” the first place it appears and inserting in lieu thereof*
25 *“section”.*

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
2 section (a) shall take effect as if included in Public Law
3 102–16 to which such amendment relates.

4 **SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTY FOR**
5 **LOANS FOR THE PURCHASE OR CONSTRUC-**
6 **TION OF HOMES.**

7 Subparagraphs (A)(i)(IV) and (B) of section
8 3703(a)(1) of title 38, United States Code, are each amend-
9 ed by striking out “\$46,000” and inserting in lieu thereof
10 “\$50,750”.

11 **SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.**

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

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

21 (3) In determining the number of years of service that
22 may not be exceeded in an employee-employer relationship
23 with respect to which a person seeks reemployment under
24 chapter 43 of title 38, United States Code, as in effect before
25 or after the date of enactment of this Act, there shall be

1 *included all years of service without regard to whether the*
2 *periods of service occurred before or after such date of enact-*
3 *ment unless the period of service is exempted by the chapter*
4 *43 that is applicable, as provided in paragraphs (1) and*
5 *(2), to the reemployment concerned.*

6 *(4) A person who initiates reemployment under chap-*
7 *ter 43 of title 38, United States Code, during or after the*
8 *60-day period beginning on the date of enactment of this*
9 *Act and whose reemployment is made in connection with*
10 *a period of service in the uniformed services that was initi-*
11 *ated before the end of such period shall be deemed to have*
12 *satisfied the notification requirement of section 4312(a)(1)*
13 *of title 38, United States Code, as provided in the amend-*
14 *ments made by this Act, if the person complied with any*
15 *applicable notice requirement under chapter 43, United*
16 *States Code, as in effect on the day before the date of enact-*
17 *ment of this Act.*

18 *(b) DISCRIMINATION.—The provisions of section 4311*
19 *of title 38, United States Code, as provided in the amend-*
20 *ments made by this Act, and the provisions of subchapter*
21 *III of chapter 43 of such title, as provided in the amend-*
22 *ments made by this Act, that are necessary for the imple-*
23 *mentation of such section 4311 shall become effective on the*
24 *date of enactment of this Act.*

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

7 (2) *With respect to the provisions of section 4317 of*
8 *title 38, United States Code, as provided in the amendments*
9 *made by this Act, a person on active duty on the date of*
10 *enactment of this Act, or a family member or personal rep-*
11 *resentative of such person, may, after the date of enactment*
12 *of this Act, elect to reinstate or continue a health plan as*
13 *provided in such section 4317. If such an election is made,*
14 *the health plan shall remain in effect for the remaining por-*
15 *tion of the 18-month period that began on the date of such*
16 *person's separation from civilian employment or the period*
17 *of the person's service in the uniformed service, whichever*
18 *is the period of lesser duration.*

19 (d) *DISABILITY.*—(1) *Section 4313(a)(3) of chapter 43*
20 *of title 38, United States Code, as provided in the amend-*
21 *ments made by this Act, shall apply to reemployments initi-*
22 *ated on or after August 1, 1990.*

23 (2) *Effective as of August 1, 1990, section 4307 of title*
24 *38, United States Code (as in effect on the date of enactment*
25 *of this Act), is repealed, and the table of sections at the*

1 *beginning of chapter 43 of such title (as in effect on the*
2 *date of enactment of this Act) is amended by striking out*
3 *the item relating to section 4307.*

4 *(e) INVESTIGATIONS AND SUBPOENAS.—The provisions*
5 *of section 4326 of title 38, United States Code, as provided*
6 *in the amendments made by this Act, shall become effective*
7 *on the date of the enactment of this Act and apply to any*
8 *matter pending with the Secretary of Labor under section*
9 *4305 of title 38, United States Code, as of that date.*

10 *(f) PREVIOUS ACTIONS.—Except as otherwise pro-*
11 *vided, the amendments made by this Act do not affect*
12 *reemployments that were initiated, rights, benefits, and du-*
13 *ties that matured, penalties that were incurred, and pro-*
14 *ceedings that begin before the end of the 60-day period re-*
15 *ferred to in subsection (a).*

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

1 (h) *EMPLOYER PENSION BENEFIT PLANS.*—(1) *Noth-*
2 *ing in this Act shall be construed to relieve an employer*
3 *of an obligation to provide contributions to a pension plan*
4 *(or provide pension benefits), or to relieve the obligation of*
5 *a pension plan to provide pension benefits, which is re-*
6 *quired by the provisions of chapter 43 of title 38, United*
7 *States Code, in effect on the day before this Act takes effect.*

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

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

Attest:

Clerk.

103^D CONGRESS
2^D SESSION

H. R. 995

AMENDMENT
TO
SENATE AMENDMENT