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NOMINATION OF VICE ADMIRAL RUFUS L. TAYLOR AND MISCELLANEOUS BILLS

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HEARING BEFORE THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE EIGHTY-NINTH CONGRESS SECOND SESSION

ON
NOMINATION OF VICE ADMIRAL RUFUS L. TAYLOR, USN,
TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

H.R. 266

TO AMEND SECTIONS 404 AND 406 OF TITLE 37, UNITED STATES CODE, RELATING TO TRAVEL AND TRANSPORTATION ALLOWANCES OF CERTAIN MEMBERS OF THE UNIFORMED SERVICES WHO ARE RETIRED, DISCHARGED, OR RELEASED FROM ACTIVE DUTY

H.R. 5297

TO AMEND TITLE 10, UNITED STATES CODE, TO LIMIT THE REVOCATION OF RETIRED PAY OF MEMBERS OF THE ARMED FORCES, AND FOR OTHER PURPOSES

H.R. 15748

TO AMEND TITLE 10, UNITED STATES CODE, TO AUTHORIZE A SPECIAL THIRTY-DAY PERIOD OF LEAVE FOR A MEMBER OF A UNIFORMED SERVICE WHO VOLUNTARILY EXTENDS HIS TOUR OF DUTY IN A HOSTILE FIRE AREA

H.R. 17119

TO AMEND TITLE 10, UNITED STATES CODE, TO PERMIT MEMBERS OF THE ARMED FORCES TO BE ASSIGNED OR DETAILED TO THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, DEPARTMENT OF COMMERCE

OCTOBER 6, 1966

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NOMINATION OF VICE ADM. RUFUS L. TAYLOR AND
MISCELLANEOUS BILLS

THURSDAY, OCTOBER 6, 1966

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to call, at 10:30 a.m., in room 212, Old Senate Office Building, Senator Richard B. Russell (chairman) presiding.

Present: Senators Russell of Georgia, Stennis, Cannon, Young of Ohio, Inouye, Byrd of Virginia, Saltonstall, and Thurmond.

Also present: William H. Darden, chief of staff; T. Edward Braswell and Gordon A. Nease, professional staff members; Charles B. Kirbow, chief clerk.

Chairman RUSSELL. The committee will come to order.

The first matter on the agenda this morning is the nomination of Vice Adm. Rufus L. Taylor to be Deputy Director of Central Intelligence.

This nomination has been pending before the committee for the required period.

In keeping with our precedent, Admiral Taylor has been requested to make a personal appearance.

Admiral, we welcome you before the committee and congratulate you on your selection to fill this very vital position.

Members of the committee have before them your biography, but we will ask you to give us an oral summary of your background and experience before propounding any questions.

(The nomination reference and biography of Vice Adm. Rufus L. Taylor follow:)

NOMINATION REFERENCE AND REPORT

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
September 20, 1966.

Ordered, That the following nomination be referred to the Committee on Armed Services:

Vice Admiral Rufus L. Taylor, United States Navy, to be Deputy Director of Central Intelligence.

VICE ADMIRAL RUFUS L. TAYLOR, U.S. NAVY

Rufus Lackland Taylor was born in St. Louis, Missouri, on January 6, 1910, son of Mrs. Caroline Newman Taylor and the late Rufus L. Taylor. He attended Soldan High School in St. Louis, Missouri, Holderness School in Plymouth, New Hampshire, and Hall's School, Columbia, Missouri, before entering the U.S. Naval Academy, August 25, 1929. He was graduated on June 1, 1933. He attained the rank of Vice Admiral on June 1, 1966.

After graduation he was attached to the Sixth Naval Reserve Area at St. Louis and later served aboard the USS ARIZONA and the USS PRESTON (DD-379).

From September 1938 to September 1941, he was a student of the Japanese language at the American Embassy, Tokyo, Japan. He was then posted to the Sixteenth Naval District Headquarters at Cavite, Philippine Islands, for duty as a Communications Officer. After the United States troops at Bataan had surrendered to the Japanese, he was sent to Australia, and from April 1942 until February 1943 served on the Staff of the Commander Allied Naval Forces, Southwestern Pacific.

Returning to the United States, he served from March 1943 to November 1944 in the Office of the Chief of Naval Operations, Navy Department, Washington, D.C. Again ordered to the Pacific in December 1944, he served throughout the remaining period of the War at Headquarters, Fourteenth Naval District, Pearl Harbor.

He was attached to the General Headquarters, U.S. Army Forces, Pacific, in August 1945, and was included in the first contingent of U.S. Forces to enter Japan after the capitulation of the Japanese. He remained in Japan with the Occupation Forces from August to November 1945.

He returned to the Office of the Chief of Naval Operations in November 1945, where he served until June 1946. He was then assigned to the Central Intelligence Group until transferred as a student to the Armed Forces Staff College, Norfolk, Virginia, in February 1947. He commanded the USS NOA (DD-841), from June 1947 to April 1948. In May of that year he was transferred to duty in the Office of Naval Intelligence, where he remained until November 1951, when he became Assistant Head of the Security Branch, Communications Division Office of the Deputy Chief of Naval Operations (Administration).

In May 1953 he was assigned to the National Security Agency Directorate, Washington, D.C., and in December of the same year was transferred to the Office of the Secretary of Defense. On March 17, 1955 he was ordered to duty on the Staff of Commander Naval Forces, Far East, as Assistant Chief of Staff for Intelligence and a year later was transferred to the Staff of Commander in Chief, U.S. Pacific Fleet, again as Assistant Chief of Staff for Intelligence.

From 1959 to 1963 he served in the Office of the Chief of Naval Operations, Navy Department as Assistant Director for Foreign Intelligence, later as Deputy Director of Naval Intelligence. On June 24, 1963 he became Assistant Chief of Naval Operations (Intelligence) and Director of Naval Intelligence. In June, 1966, he was appointed Deputy Director of the Defense Intelligence Agency, Washington, D.C., and was serving in this position when he was nominated by the President on September 20, 1966 as Deputy Director of Central Intelligence.

In addition to the Bronze Star Medal with Combat "V," the Secretary of the Navy Commendation Medal, the Army Distinguished Unit Badge with Oak Leaf Cluster and the Navy Unit Commendation Ribbon, Admiral Taylor has received the American Defense Service Medal with star; Asiatic-Pacific Campaign Medal with stars; American Campaign Medal; World War II Victory Medal; Navy Occupation Service Medal, Asia Clasp; National Defense Service Medal; and the Philippine Defense Ribbon with star.

Vice Admiral Taylor and his wife, Mrs. Karin Gerdts Taylor, have three children: Rufus L. Taylor, III; Carol Inga Taylor; and Lisa Noel Taylor.

**STATEMENT OF VICE ADM. RUFUS L. TAYLOR, USN, NOMINEE TO
BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE**

Admiral TAYLOR. Thank you, Mr. Chairman.

It is certainly an honor to be here.

As you can see from my biography, I graduated from the class of 1933, and my first assignment was to the U.S.S. *Arizona*. I stayed

with the *Arizona* for about 2 years and then was transferred to a new destroyer then fitting out, what we called in those days the gold platers, 1,500-ton ships, the *Preston*, No. 379.

I stayed with the *Preston* until 1938, when I was transferred to Japan as a naval language officer.

I spent 3 years in Japan studying the Japanese language, and people, culture, and customs.

I was transferred from there to the Philippines and was in the Philippines at the start of the war.

I remained there until the night of the surrender in Bataan, when I was able to be evacuated from the Philippines in a submarine which fortuitously had come in there and people in my unit had been given orders to evacuate on that ship if we could meet up with it, which we did.

From there, I was attached to the destroyer *Bulmar* for a short period of time in western Australia, and then to Allied Naval Forces staff at Melbourne where I served in the Intelligence Division.

I was then transferred back to Washington, where I spent about a year, and then back to the Pacific Fleet where I was attached to the 14th Naval District in a unit operating under commander in chief, Pacific headquarters.

The rest of the war I spent with that unit with the exception of the fact that at the end of hostilities I was assigned to supreme headquarters, allied commander, with the occupation of Japan, General MacArthur's command, along with a group of Army and Navy officers.

I went back into Japan almost exactly 4 years to the day since I had left it, just prior to the war, with the group to which I was attached.

After serving in Japan, I then came back to Washington for a short tour and was subsequently assigned to the Communications Division.

At that time I was asked to take a job in a liaison detachment which was then forming in the Central Intelligence group. For a period of time, I was head of what was called the Advisory Council of the Central Intelligence Group under General Vandenberg.

From there, I went to the Armed Forces Staff College, and after graduation from the Armed Forces Staff College I took command of a destroyer, the *Noa*. The *Noa* was the undersea warfare training ship at Key West.

I had hardly been on the *Noa* 8 or 9 months, just short of a year, when I was asked for again in Washington, on an intelligence assignment, which I accepted, and I went to head what they then called the Special Operational Intelligence Unit.

I served in that unit for 3 years, and then was made Assistant Director of the Naval Security Group with headquarters on Nebraska Avenue.

After serving there a short period of time, I was asked to take the position of Executive Secretary of the newly forming USCIB, which I did, and served there for 2 years, reporting personally to the then Chairman, Mr. Allen Dulles.

I was then ordered to Naval Forces Far East, under Admiral Callaghan as the intelligence officer.

I spent a year there, and then I went to the Pacific Fleet as the intelligence officer of the Pacific Fleet where I spent 3 years.

When I returned from there, I was assigned again to the Office of Naval Intelligence where I was first head of what they call their

research and requirement staff, which is a staff designed to look into the future, to see what sorts of things needed to be done to make the intelligence business viable, and then from there I was made Assistant Director for Foreign Intelligence. I fleeted up eventually to Deputy Director of Naval Intelligence and had indicated a desire to retire.

To my surprise, I was selected for flag rank, and asked to take the job of Director of Naval Intelligence, which I did.

I served as Director of Naval Intelligence from June of 1963 until June of 1966, when I was asked to take the appointment as Deputy Director of the Defense Intelligence Agency which I am now serving. I have been there for 4 months.

I was born in St. Louis. My family were all born there. They are long-time St. Louisans, but I am now a transplant to South Carolina. I have established my legal residence in South Carolina, Beaufort County.

Chairman RUSSELL. You have been very largely engaged in intelligence work since 1942.

Admiral TAYLOR. Yes, sir; I have.

Chairman RUSSELL. Almost exclusively.

Admiral TAYLOR. Almost exclusively—except for short tours in operational assignments.

Chairman RUSSELL. You certainly have broad experience in every aspect of military intelligence and in conjunction with the other sources of intelligence.

What is your concept of the objective of the Central Intelligence Agency?

Admiral TAYLOR. My concept of it, sir, is that it is an instrument of the Government for the purpose of assuring the coordination and viability of all of the intelligence activities of the Government.

Chairman RUSSELL. Do you envisage it as a policymaking institution?

Admiral TAYLOR. In no way, sir.

Chairman RUSSELL. Do you hold any financial interest in any organization that does any business with the Central Intelligence Agency?

Admiral TAYLOR. No, sir; I do not.

I should have added in my narrative that I have a financial statement which I am prepared to submit. It has been examined by the Central Intelligence Agency, and they find no conflict in it.

Chairman RUSSELL. They find no conflict of interest?

Admiral TAYLOR. That is right, sir. I am prepared to submit it.

Chairman RUSSELL. I suggest for the benefit of our files and records that you file it. I do not want to see it, but I will ask you to file it with the committee.

Senator Saltonstall?

Senator SALTONSTALL. Thank you, Mr. Chairman.

Admiral Taylor, you certainly have a fine record.

Do I understand you to say you are now retired or—

Admiral TAYLOR. No, sir; I am not retired. I am Vice Admiral on the active list. I had indicated a desire to retire. It is partly for that reason that I am now a resident of South Carolina, because I have a place down there where I thought I would retire. Admiral McDonald changed my mind about that.

Senator SALTONSTALL. We have a good representative here from South Carolina, and I am sure you have chosen your home well—if you could not come to Massachusetts.

Admiral TAYLOR. I hope, in years to come, if I am not needed in some capacity here, I shall be able to go down there.

Senator SALTONSTALL. Now, maybe this is incidental, Admiral, but we have had some discussion about it in past cases.

As I read the law, the National Security Act of 1947, as amended, you will continue to receive the pay that you are entitled to as an admiral, and then in addition to that, you will receive from the CIA any additional pay above what you get as an admiral for the position that you hold.

Is that your understanding?

Admiral TAYLOR. That is my understanding, sir.

Additionally, it is my understanding, sir, that the Navy is reimbursed for the pay and allowances that I receive as an officer on the active list of the Navy.

Senator SALTONSTALL. And you lose none of your rights as a Navy admiral.

Admiral TAYLOR. I understand, sir, from the law, that insofar as rank is concerned, none; but insofar as having any authority over any naval activities or personnel, I have none, except as might be vested in me as Deputy Director of Central Intelligence.

Senator SALTONSTALL. The chairman asked your conception of policy of the CIA. I may have missed some of it. You said that it was to coordinate all intelligence. Did I understand you correctly?

Admiral TAYLOR. Yes, sir; I said—

Senator SALTONSTALL. Doesn't it go one step further, as far as a public hearing is concerned, that the CIA should take on intelligence outside of our country which cannot be covered by the other agencies of Government?

Admiral TAYLOR. Yes, sir.

Senator SALTONSTALL. That you understand also.

Admiral TAYLOR. That is my clear understanding Senator.

Senator SALTONSTALL. That is very fundamental, as I see it. I have one other question, Admiral Taylor.

What are your personal relations with Mr. Helms, are they good?

Admiral TAYLOR. Excellent, sir. I have known him off and on, for years, as I have known many people in the Central Intelligence Agency. Having been in intelligence activities for a good portion of my career, I have inevitably come in contact with many of the key people in the CIA, and I have the utmost regard and admiration for them.

Senator SALTONSTALL. So, you are confident you can work with him wholeheartedly?

Admiral TAYLOR. Without question, sir. Nothing would delight me more than to work for him.

Chairman RUSSELL. Senator Stennis.

Senator STENNIS. Admiral Taylor, you stated your concept of the policy. Now, in the absence of the Director, you of course, will be the head man and Acting Director.

What is your idea about the publicity, handling of matters with reference to CIA?

I am not talking about the ultrasecret matters. But what is your idea of public relations?

Admiral TAYLOR. My view, sir—

Senator STENNIS. That is on the status of the CIA.

Admiral TAYLOR. My view, sir, in response to that question, is that any intelligence organization suffers from too much publicity, and a maximum degree of anonymity is desirable.

Senator STENNIS. Well, isn't it true that you suffer from any degree of publicity?

You say "suffers from too much." But any appreciable publicity at all mitigates as a whole against you, doesn't it? Isn't that right?

Admiral TAYLOR. Yes, sir; I think it is most unhelpful.

Senator STENNIS. Most—what?

Admiral TAYLOR. Most unhelpful.

Senator STENNIS. Well, of course, your position would be to hold it to an absolute minimum; is that right?

Admiral TAYLOR. It would, indeed, sir.

Senator STENNIS. I notice, Admiral, that on June 24, 1963, you became Assistant Chief of Naval Operations Intelligence and Director of Naval Intelligence. Did you hold that until June 1966?

Admiral TAYLOR. Yes, sir, I did.

Senator STENNIS. I have nothing further.

Chairman RUSSELL. Senator Young.

Senator YOUNG. I have no questions.

Chairman RUSSELL. Senator Thurmond.

Senator THURMOND. Admiral Taylor, I want to commend you for two things: (1) on your magnificent record in the Navy, and (2) a man cannot choose his place of birth, but he can choose his place of residence, and in this you have shown profound wisdom.

I just want to say that I think we are fortunate to have a gentleman like you join the CIA, which I feel is a very important agency of the Government, and I predict there you will render outstanding service to your country, after which you can then return to the wholesome section of South Carolina in Beaufort County.

Admiral TAYLOR. Thank you.

Chairman RUSSELL. Senator Inouye?

Senator INOUE. I have no questions.

Chairman RUSSELL. Thank you very much, Admiral.

Admiral TAYLOR. Thank you very much, sir.

It has been an honor to appear here.

(The nomination of Vice Admiral Taylor, U.S. Navy, to be Deputy Director of Central Intelligence was subsequently approved by the committee in executive session and confirmed by the Senate on October 7, 1966.)

H.R. 15748

Chairman RUSSELL. The first legislative matter on the agenda is H.R. 15748, a bill sponsored by the Department of Defense that would authorize a 30-day leave and roundtrip transportation to the United States or to another place of his choice for a member of the Armed Forces who agreed to extend his service in Vietnam for 6 months.

(H.R. 15748 follows:)

[H. R. 15748, 89th Cong., 2d sess.]

AN ACT To amend title 10, United States Code, to authorize a special thirty-day period of leave for a member of a uniformed service who voluntarily extends his tour of duty in a hostile fire area

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 703 of title 10, United States Code, is amended by inserting the designation "(a)" before "Leave" and by adding the following new subsection:

"(b) Under regulations prescribed by the Secretary of Defense, and notwithstanding subsection (a), a member who is on active duty in an area described in section 310(a)(2) of title 37 and who, by reenlistment, extension of enlistment, or other voluntary action, extends his required tour of duty in that area for at least six months may be—

"(1) authorized not more than thirty days of leave, exclusive of travel time, at an authorized place selected by the member; and

"(2) transported at the expense of the United States to and from that place.

Leave under this subsection may not be charged or credited to leave that accrued or that may accrue under section 701 of this title."

Passed the House of Representatives August 1, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness on this bill is Brig. Gen. William W. Berg, Deputy Assistant Secretary of Defense for Military Personnel Policy.

Be seated, General.

Give us a brief statement with respect to this bill, and why is it desirable.

STATEMENT OF BRIG. GEN. WILLIAM W. BERG, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY

General BERG. Mr. Chairman, and members of the committee. I am Brig. Gen. William W. Berg, Deputy Assistant Secretary of Defense for Manpower.

The Department of Defense appreciates the consideration of H.R. 15748 by the committee. This bill is a recently added item in the Department of Defense legislative program for the 89th Congress. We consider that its enactment would provide an immediate beneficial effect on the effectiveness of our forces in Vietnam.

The standard tour of duty for military personnel in Vietnam is but 12 months. I am sure it seems extremely long to those serving there, but a lesser period would seriously reduce the period of actual effectiveness in the area. There would be valuable gains in effectiveness in longer tours. Nevertheless, we consider, and General Westmoreland emphatically agrees, that an involuntary increase in this tour would be inequitable and destructive of morale.

General Westmoreland on several occasions has given his views on the tour length. In recent months he has reiterated that the normal 12-month tour is essential to combat efficiency, health, and morale, and that except for the most senior officers any extensions should be entirely voluntary. He has observed that the increase in intensity in combat and the large numbers of personnel living under austere field conditions which have resulted from developments in the past year compound the effects of a severe tropical climate and other hardships inherent in the environment.

Accordingly, the intent of H.R. 15748 is to provide persons currently serving in Vietnam an incentive to voluntarily extend their tour of duty. The bill provides that military personnel who voluntarily take action which effectively extends their tour of duty in an area in which hostile fire pay is payable could be granted leave and transportation for a 30-day break in that duty. Under present statutes we have no authority to provide the transportation, and both leave and travel time would be chargeable to leave earned by the usual formula.

Not all of the personnel assigned to Vietnam are subject to the standard tour. In the case of unit moves the detachment of all individuals with less than 12 months of obligated service in anticipation of the move would have seriously affected unit effectiveness. Hence, there are some individuals who went to Vietnam in unit deployments who must be returned earlier than the completion of a 1-year tour, because of expiration of their service contract. In these cases, reenlistment or extension of enlistment while in Vietnam would be a very significant contribution to the operations and would provide valuable continuity in certain assignments.

We have information from our senior commanders in Vietnam that a number of individuals would volunteer to serve longer than the required period of service in Vietnam, because of personal dedication to the mission, if the period of service could be broken into reasonable segments. Service in the area is indeed remote from home and familiar community life, under conditions that include a high degree of physical discomfort as well as hazard. H.R. 15748 would make it possible to provide an interruption that would make a longer tour acceptable to these highly motivated men.

It is not possible to estimate the numbers of men who would qualify for this leave. Realistically, the special leave would be an incentive only for those men who truly desire to continue in the duty. Return to the United States—with an opportunity to take leave—occurs normally at the expiration of the required tour. We believe that the value of the proposal rests on the quality of the results rather than on numerical magnitude. We would hope that it would interest the man in a position of leadership, the man who has become personally interested in the Vietnamese struggle, and the man whose duties have created a personal rapport with the Vietnamese people in civic as well as military actions. The effect of having such men for longer service would be far out of proportion to the mere numbers involved.

Theoretically, the longer tours would have some effect on the requirements for replacements and, hence, would result in some savings to effect the out-of-pocket costs for the leave and transportation. We do not advance this as an argument for the proposal. The possibility of substantial changes in force levels and force composition would make it impossible to demonstrate either the amount or validity of any such offsets. The value of the proposal is not in savings achieved, but rather in effectiveness attained.

The bill requires that the Secretary of Defense prescribe the regulations for administration of the benefit authorized by H.R. 15748. These regulations now are in preparation. I can assure you that they will adhere to the purpose of the legislation, with a minimum of administrative detail. This purpose can be simply stated: to give

these men who volunteer a relief from arduous duty in consideration of their extended commitments. Thank you, sir.

Chairman RUSSELL. Well, gentlemen, there is not too much we can do with a bill of this nature, except report it.

I have certain misgivings about this type of legislation. Those hostile fire areas include all the men serving on all the ships at sea in that area, do they not?

General BERG. It includes the Navy people who are actually assigned to Vietnam, and that does include the smaller ships, sir, but it does not include the people in the 7th Fleet.

Chairman RUSSELL. How about a carrier that is operating offshore?

General BERG. It would not include them, sir. They are not over there under any standard tour.

Chairman RUSSELL. You mean a man flying an airplane off a carrier is not considered in hostile fire?

General BERG. Yes, sir, he is in hostile fire area; he draws hostile fire pay. He also gets the income tax exclusion, but he is attached to the ship, and he may be in there a period of 3 or 4 months and then go off to one of the areas in the local area and then come back in again, but he is not there for a prescribed 1-year tour.

Chairman RUSSELL. So, he would not benefit from this bill.

General BERG. That is correct.

Chairman RUSSELL. But a man serving on the ground, in the ground forces of the Air Force up in Thailand would be included.

General BERG. Not in Thailand, because that is not a hostile fire area, sir.

Chairman RUSSELL. How about the people flying out of Thailand?

General BERG. It does not cover them, sir.

Chairman RUSSELL. Well, it is a mighty bad bill. It is worse than I thought. You mean, a man flying a plane to attack the North Vietnamese and Vietcong out of Thailand is not considered covered by the hostile—well, I will not press you on that. I am reminded that it is supposed to be classified information, although the Assistant Secretary of Defense testified about it in open hearings before the Foreign Relations Committee a few days ago.

General BERG. Those people do receive hostile fire pay.

Chairman RUSSELL. Yes.

Well, how about a man that is working in an office in Saigon?

General BERG. Any person who is stationed in Vietnam or in the waters within a 12-mile limit, I think it is, where the tour is precisely 1 year, would be covered by this bill.

Chairman RUSSELL. Unfortunately, a large percentage of the 400,000 people we have over there are not engaged in combat at any time, and they will benefit by this just as much as the man who stays up there in the rice paddy, getting shot at all day. But, as I say, we have never been able to get the Department of Defense to undertake to define a combat troop, a combat soldier. They say they cannot. We will have to take it as it is.

Senator Saltonstall?

Senator SALTONSTALL. Mr. Chairman, following up what you have said.

General, I have just been reading section 310(a) subparagraph 2, which reads:

was on duty in an area in which he was in imminent danger of being exposed to hostile fire or exposed to hostile mines and in which during the period he was on duty in that area other members of the uniformed services were subject to hostile fire or explosion of hostile mines.

Now, if you will read that, and follow up what the chairman has said about a man up in an airplane, even if he may be based on a carrier, why isn't he subject to hostile fire within that section?

General BERG. Senator Saltonstall, he does receive hostile fire pay. But the bill says a man who is assigned in an area. He goes in and out of there, and each day he goes in he does qualify for and receives the hostile fire pay.

Senator SALTONSTALL. Well, the bill says "a member who is on active duty in an area"—"who is on active duty".

Now, if a flyer is on active duty on a carrier, and his responsibility is to bomb a certain area and he is shot down or shot at, I would think he was included within that section, or the bill should be amended so that he was included.

Chairman RUSSELL. I understand the general's point was he did not stay there for 12 months.

Is that right, General?

General BERG. Yes, sir; he is not under that tour.

As a matter of fact, Senator Saltonstall, if I might say: The people that are flying missions over there, if they are stationed in Vietnam, they do not even come under the standard 12-month tour as a general rule.

Senator SALTONSTALL. How about a helicopter pilot?

General BERG. I am not sure about the helicopter pilots in the Army, but as a general rule there are a number of missions that are prescribed when a tour ends, particularly the pilots who are going to bomb in North Vietnam.

Senator SALTONSTALL. Well, Mr. Chairman, I would hope that the general would perhaps do a little more research on that subject, and see whether this bill, as it is now drafted, would cover a helicopter pilot who may be assigned over there for 12 months, or show us some reason why he should not include him.

General BERG. It would cover a helicopter pilot whose tour, Senator, was covered by the 12-month period.

If he is covered by a tour which says that upon the completion of so many missions he rotates, he would not be covered specifically by this. But if he did volunteer, we could write the regulation so that he could come back. As a general rule, most of those people are not the people who are volunteering and not the people we are seeking to volunteer.

Senator SALTONSTALL. I am informed by our experts this is a new step in our war efforts.

Neither in World War II, nor World War I, nor in Korea have we ever had this type of extended leave as an inducement for further service.

Do you agree with that?

General BERG. That is correct, Senator.

Senator SALTONSTALL. I have no further questions, Mr. Chairman. But I think it would be helpful if we could have a little further explanation or data concerning the interpretation or how the military

interprets that section 310(a) (2)—unless there is no doubt in your mind. There would be doubt in my mind.

Chairman RUSSELL. There is no doubt in my mind as to what that section says. The thing that confuses me is the application of it to for illustration, naval pilots who are posted in the area for 4 months and then go out and then come back after 2 months and stay for 4 more months. They break their 12-month continuity. Some of them have not had leave for a long time, 13 or 14 months, back home. But they would not be entitled to this extra month of leave, because the ship was not stationed there for as long as 12 months at one time, if I understand General Berg.

General BERG. That is right, sir.

Chairman RUSSELL. Well, that is a very serious defect in the bill, Senator.

Senator Stennis?

Senator STENNIS. Could you give us an estimate of about how many men this would apply to, or what percent of those that are over there?

General BERG. The only figure we ever received, Senator Stennis, was an informal estimate by General Walt at one time that of his force, of the Marine force, he thought that as many as 20 percent of that force would volunteer to serve an additional length of time in Vietnam. That is the only estimate we have had.

Senator STENNIS. All right. What percent of those who are on the mainland would be, you think, eligible for this bill?

General BERG. Well, technically, all would be, all 300,000 of them.

Senator STENNIS. All right. That is all I have.

Chairman RUSSELL. Senator Young.

Senator YOUNG. It appears to me, General, that this is a very inopportune time, perhaps 2 weeks before we hope to recess, or adjourn, and a new session of Congress convening in January—it seems to me this is a very inopportune time to come in suddenly and present a bill of this sort when there is not any precedent for it. I would personally be opposed to it.

But I want to ask you, sir: This applies, as I understand it, to all enlisted men, such as enlisted men who are doing manual labor, you might say, at Cam Ranh Bay?

General BERG. Yes, sir.

Senator YOUNG. Far from the fighting front, really.

General BERG. Yes, sir.

Senator YOUNG. And, then, on the other hand—it can hardly be said to be classified anymore—we know that the devastating air raids in large part come from Thailand over North Vietnam. We know that we are losing the lives of many precious pilots. And they are not included in this at all—the men who help in Thailand, getting those planes in operation. They are not included in this; is that correct?

General BERG. That is correct, sir.

Senator YOUNG. But someone is working in an office in Saigon, in an air-conditioned office, would be included.

General BERG. Yes, sir.

Senator YOUNG. And also out of Guam we are daily sending very devastating raids over those parts of Vietnam, and those airmen and pilots would not be included under this bill.

General BERG. That is correct, Senator. The tour in Guam, as a matter of information, is not a 12-month tour. There are dependents stationed in Guam, and the tour there is a 24-month tour.

Senator YOUNG. But in Thailand, it is a 12-month tour.

General BERG. That is correct, sir.

Senator YOUNG. And there are many enlisted men there at the present time.

General BERG. Yes, sir, that is right.

Senator YOUNG. Thousands of them.

Don't you think, sir, that it would be desirable to have a hearing on this, and let us hear all of the factors on it? We cannot foresee what the situation over in southeast Asia in next January will be, can we?

General BERG. I do not believe so, sir.

Senator YOUNG. Well, I feel, General, this committee has been very liberal to our Armed Forces, but it seems they are always coming in for more. I take a dim view of his bill at the present time.

No other questions.

Chairman RUSSELL. Senator Thurmond?

Senator THURMOND. Thank you, Mr. Chairman.

General, let me see if I understand the bill correctly.

As I understand the purposes of the bill is not to reward for hostile fire. That has already been done under other legislation on the books now. This is merely to provide that if a man serves in a hostile area for 12 months continuously then he can go back home or go somewhere for 30 days at Government expense. Is that right?

General BERG. That is right, sir.

Senator THURMOND. In case he desires to extend his service.

General BERG. And in case the commanders over there would like to have him back.

Senator THURMOND. And so far as hostile fire of a pilot or anyone else is concerned, he gets that already—hostile fire pay—doesn't he?

General BERG. That is right.

Senator THURMOND. And if a pilot stays there, if anyone is stationed there, whether it is a pilot or a helicopter pilot or ground soldier in the rice paddies, if they are in this area for 12 months, then they will be allowed to leave for 30 days and return at Government expense. Is that correct?

General BERG. That is correct. As long as they volunteer to serve at least 12 months in that same area.

Senator THURMOND. As I understand, the purpose of the bill is to encourage people who the services desire to have back there to come back after they have had some rest, after being there 12 months.

General BERG. We presented this bill, sir, at the express request of General Westmoreland, it is a way to allow him to keep certain skilled people he had over there, by virtue of allowing the to return and go back again.

Senator THURMOND. And if the helicopter is there 12 months and wants to return, wouldn't this bill apply to him or anyone else that was 12 months?

General BERG. It would.

Senator THURMOND. It would apply to anybody, would it not?

General BERG. That is right.

Senator THURMOND. Air Force, Army, Marine, Navy.

General BERG. Who is stationed in Vietnam.

Senator THURMOND. It is not a reward. A 30-day vacation is not a reward because he has been subjected to hostile fire, because those people are already being taken care of.

It is merely being given an opportunity to get a rest, so to speak, or a respite, after being arduously and continuously on duty for 12 months.

General BERG. That is right.

Senator THURMOND. Thank you.

That is all, Mr. Chairman.

Chairman RUSSELL. General, I was under the opinion that the Navy had already extended the tour under the law that applies to them and does not apply to the Air Force and the Army, that they had already extended the tour out there, and not only the tour but the time of enlistment beyond the time when a man was legally supposed to be separated from the service for a period of six months. Did you ever hear of that Act?

General BERG. Yes, sir, Senator Russell.

What the Navy did—and it applies also to the Marine Corps: They extended the period of service, the enlistment, by as much as 4 months. But this was extended for people regardless of where they were serving. It occurred—a lot of people were serving in the United States, Europe, and so forth.

Chairman RUSSELL. I understand that. But nobody in the Air Force or the Army had their period of enlistment extended, did they?

General BERG. No, sir, we did not have the authority. The Navy was the only service that had the authority. The last of those people leave the end of this month, Senator Russell.

Chairman RUSSELL. I did not understand—I understood that this was in the nature of a bonus to get people to go back to Vietnam after having served their required time.

General BERG. General Westmoreland has repeatedly said that he would like to be able to take some small number of people who are dedicated to their mission and whose dedication he needed and be able to say to them, "If you will extend, we will authorize you to go home and pay the transportation and give you the leave, and you come back and serve an additional period of time here."

At the present time, we have given him authority to do that in the case of 60 people in the grade of Colonel and above. The difficulty today is that their leave, the leave they get, is chargeable to their accrued leave, and there is no way to give them the transportation—they come back on the space available, on a space-available basis, which is almost nonexistent over there. He is merely trying to get the authority here to do that—an unlimited basis.

Chairman RUSSELL. There have been some exceptional cases where men have voluntarily extended their tour of duty in Vietnam past the 12 months, have there not?

General BERG. And those people are people in the grade of Colonel and above, sir.

Chairman RUSSELL. You would not permit it for a noncommissioned officer?

General BERG. No, sir.

Chairman RUSSELL. I had a letter from a man who must have got caught up in some kind of a misunderstanding. He stated that he

had volunteered and gone back to Vietnam after serving one tour there. He was a master sergeant in the Army.

General BERG. He could have come back, Mr. Chairman, and then volunteered to go over a second time.

Chairman RUSSELL. I see.

Senator INOUE?

Senator INOUE. General, all of the personnel now assigned to Vietnam are now subject to the standard tour.

General BERG. Well, they are subject to the standard tour unless they have an enlistment contract which expires before their 12 months are up.

Senator INOUE. What if I am one of those with an enlistment contract that has expired. Would I come under this?

General BERG. Yes, sir, that is part of my statement. A man who is under that circumstance, if he will reenlist right in Vietnam then he does qualify for the leave back to the States, for transportation, and has to serve at least 6 months after he gets back.

Senator INOUE. I have no further questions, sir.

Chairman RUSSELL. Senator Byrd.

Senator BYRD of Virginia. Thank you, Mr. Chairman.

General, this would apply to those who reenlist for a period of at least 6 months. Would it serve your purposes if the requirement would be for a year instead of 6 months?

General BERG. Well, it would serve our purpose. We think that the 6 months would, in some cases, be very helpful, where a man might want to stay 6 months but not the year.

Senator BYRD of Virginia. No further questions, Mr. Chairman.

Chairman RUSSELL. If there are no further questions, we thank you, General, for your appearance.

(Subsequently, in executive session, the committee voted to report H.R. 15748, with an amendment, as covered by Senate Report No. 1691.)

H.R. 17119

Chairman RUSSELL. The next bill is H.R. 17119, a Department of Defense bill, to permit members of the Armed Forces to be assigned or detailed to the Environmental Science Services Administration without affecting their status as members of the Armed Forces.

(H.R. 17119 follows:)

[H.R. 17119, 89th Cong., 2d sess.]

AN ACT To amend title 10, United States Code, to permit members of the armed forces to be assigned or detailed to the Environmental Science Services Administration, Department of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 41 of title 10, United States Code, is amended—

(1) by adding the following new section:

“§ 719. Department of Commerce: assignment or detail to Environmental Science Services Administration

“Upon the request of the Secretary of Commerce, the Secretary of a military department may assign or detail members of the armed forces under his jurisdiction for duty in the Environmental Science Services Administration, Department of Commerce, with reimbursement from the Department of Commerce. Notwithstanding any other provision of law, a member so assigned or detailed may exercise the functions, and assume the title, of any position in that Ad-

ministration without affecting his status as a member of an armed force, but he is not entitled to the compensation fixed for that position.”; and

(2) by adding the following new item at the end of the analysis:

“719. Department of Commerce: assignment or detail to Environmental Science Services Administration.”

Passed the House of Representatives September 6, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness is Col. Eugene C. St. Clair, Deputy Assistant for Weather, Office of the Deputy Chief of Staff, Programs and Resources, Department of the Air Force.

You may proceed.

STATEMENT OF COL. EUGENE C. ST. CLAIR, DEPUTY ASSISTANT FOR WEATHER, OFFICE OF THE DEPUTY CHIEF OF STAFF, PROGRAMS AND RESOURCES, DEPARTMENT OF THE AIR FORCE

Colonel St. CLAIR. Mr. Chairman, members of the committee, I am Col. Eugene C. St. Clair, Deputy Assistant for Weather, Deputy Chief of Staff, Programs and Resources, Headquarters, U.S. Air Force.

The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Air Force for this purpose.

Chairman RUSSELL. Colonel, I do not see any necessity for you reading this entire statement. This is to permit certain Air Force personnel to work with the—

Colonel St. CLAIR. Department of Commerce.

Chairman RUSSELL. Department of Commerce, without being detrimental to their status in the Air Force.

Colonel St. CLAIR. Yes, sir.

Chairman RUSSELL. How many people does it affect?

Colonel St. CLAIR. Presently, we have three officers assigned there, two Air Force and one Navy. It would apply to all of the services.

Chairman RUSSELL. Do you have any intentions of building up a large force?

Colonel St. CLAIR. No, sir.

Chairman RUSSELL. So, it would be a very small number of people affected by it.

Colonel St. CLAIR. Yes, sir.

Chairman RUSSELL. And this is just to protect their military status, enabling them to serve their country in this Weather Bureau and other special services.

Colonel St. CLAIR. That is correct, sir.

Chairman RUSSELL. That are beneficial to the armed services likewise.

Colonel St. CLAIR. Yes, sir. The bill would further provide for reimbursement to the Department of Defense by the Department of Commerce.

Chairman RUSSELL. Any questions?

(No response.)

Chairman RUSSELL. Thank you very much, Colonel.

(The prepared statement of Colonel St. Clair follows:)

PREPARED STATEMENT OF COL. EUGENE C. ST. CLAIR

Mr. Chairman and members of the committee, I am Colonel Eugene C. St. Clair, Deputy Assistant for Weather, Deputy Chief of Staff, Programs and Resources, Headquarters, United States Air Force. The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Air Force for this purpose.

The purpose of H.R. 17119 is to amend title 10, United States Code, to permit members of the armed forces who are qualified meteorologists to be detailed to the Environmental Science Services Administration of the Department of Commerce for duty with the Office of the Federal Coordinator for Meteorological Services and Supporting Research or with the Weather Bureau.

The Office of the Federal Coordinator for Meteorological Services and Supporting Research was recently established in the Department of Commerce to implement Bureau of the Budget Circular No. A-62, November 13, 1963, entitled "Policies and Procedures for the Coordination of Federal Meteorological Services."

The operative portions of the Circular assign the following responsibilities to the Department of Commerce:

a. "The Department of Commerce, with the advice and assistance of other agencies concerned, will establish procedures designed to facilitate a systematic and continuing review of basic and specialized meteorological requirements, services, and closely related supporting research. The Department will undertake such reviews with the objectives of (1) establishing and reviewing, as appropriate, needed basic services, and (2) advising other agencies on the need for and organization of specialized services."

b. "The Department of Commerce will prepare and keep current a plan, and obtain periodic information on its implementation, for the efficient utilization of meteorological services and supporting research. The purpose of such planning is to achieve the maximum integration of current and future services and research consistent with the effective and economical accomplishment of mission requirements."

Recognizing the importance of obtaining staff personnel with extensive knowledge and experience in major user areas such as civil aviation and the military services, the Department of Commerce requested the primary agencies concerned with meteorological support to designate senior personnel to work on detail in one or more of the staff positions under the direction of the Federal Coordinator as a part of the permanent staff. Accordingly, since early 1964, both the Air Force and the Navy have each had one officer detailed to the Office of the Federal Coordinator virtually continuously. Originally, these were senior officers who were utilized at the policy and management level. These officers have since been replaced by less senior members whose primary function is to assist the work of the various committees and subcommittees. Also, almost continuously since August 1963, the Air Force has had an additional senior officer assigned to the Department of Commerce—initially as Military Advisor to the Chief of the Weather Bureau and, more recently, as Military Advisor to the Administrator of ESSA.

Within the foreseeable future, no increase in the number of officers assigned to duty with the Department of Commerce is anticipated.

The legality of assigning military officers to civilian positions within that department was questioned by the General Counsel of the Department of Defense. The enactment of this proposal will remove any doubt concerning the legal propriety of such assignments. The proposed legislation would thus enable qualified members of the armed forces to be assigned to duty with the Environmental Science Services Administration without being subject to the restrictions of provisions of law such as section 3544(b) of title 10, United States Code, which provides that a Regular Army officer vacate his appointment as such if he exercises the function of any civil office. Additionally, it provides for reimbursing the armed forces for officers assigned to the Department of Commerce.

I appreciate the opportunity to appear before you today, and strongly urge your favorable consideration of this legislation. Thank you for your time and attention. I shall be glad to attempt to answer any questions you may have.

(Subsequently, in executive session, the committee voted to report H.R. 17119, without amendment, as covered by S. Rept. 1694.)

H.R. 266

Chairman RUSSELL. The next bill is H.R. 266. This bill would permit certain retired persons to wait longer than 1 year before select-

ing the home to which they are entitled to transportation of dependents and their baggage and household effects. An existing provision of law that the member would have to pay the cost of storing the baggage and household effects for longer than 1 year would be continued but any period in which the member was hospitalized or undergoing medical treatment within this year would be excluded. Apparently this bill is intended to permit persons to go to school or take other training that would qualify them as teachers before selecting the home to which they are entitled to transportation allowances.

(H.R. 266 follows):

[H.R. 266, 89th Cong., 1st sess.]

AN ACT To amend sections 404 and 406 of title 37, United States Code, relating to travel and transportation allowances of certain members of the uniformed services who are retired, discharged, or released from active duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 37, United States Code, is amended as follows:

(1) The first sentence of section 404(c) is amended by striking out the words after the second semicolon and inserting the following in place thereof: "may, not later than one year from the date he is so retired, placed on that list, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section."

(2) Section 406(d) is amended by striking out the third sentence and inserting the following in place thereof: "The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

"(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

"(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than ninety days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay.

Except in the case of a member who, on the date of his separation, discharge, or release, or at any time during the one-year period following that date, is confined in a hospital or is in its vicinity, undergoing medical treatment, the cost of the storage, for the period that exceeds one year, shall be paid by the member."

(3) The first sentence of section 406(g) is amended by striking out the words after the second semicolon and inserting the following in place thereof: "is, not later than one year from the date he is so retired, placed on that list, discharged, or released, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title."

Passed the House of Representatives September 20, 1965.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness on this bill is Col. Alfred R. Grimm from the Directorate of Personnel Planning, Department of the Air Force.

STATEMENT OF COL. ALFRED R. GRIMM, DIRECTORATE OF PERSONNEL PLANNING, DEPARTMENT OF THE AIR FORCE

Colonel GRIMM. Mr. Chairman, and members of the committee—
Chairman RUSSELL. Is what I have just said a good summary of the bill?

Colonel GRIMM. You have summarized it very well, sir.

Chairman RUSSELL. We will have your statement which elaborates on it printed in the record.

Are there any questions?

(No response.)

Chairman RUSSELL. Thank you very much, Colonel.

(The prepared statement submitted by Colonel Grimm reads in full as follows:)

PREPARED STATEMENT OF COL. ALFRED R. GRIMM

Mr. Chairman and members of the Committee, I am Col. Alfred R. Grimm, Chief of the Flying Status, Entitlements and Selected Policy Branch, Directorate of Personal Planning, Headquarters, United States Air Force.

The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Air Force for that purpose. I have with me today representatives of the other military departments for the purpose of answering any questions that you may have with particular reference to their service.

I have a brief prepared statement which I would like to present to the committee.

H.R. 266 provides that a member of the uniformed services retired, discharged, or released to inactive duty may select his home for the purposes of travel and transportation allowances and become entitled to transportation of his dependents, baggage, and household effects to the home selected within 1 year from the date he is retired, discharged, or released to inactive duty or within such longer period as may be authorized by the Secretary concerned. It also provides that nontemporary storage of baggage and household effects shall not be authorized for a period longer than 1 year from the date members are separated from the service, retired, placed upon the temporary disability retired list, discharged, or released from active duty, except that a longer period may be authorized by regulations promulgated by the respective Secretaries where a member is confined in a hospital or in its vicinity undergoing medical treatment on that date; or in the case of a member who (1) is retired for physical disability or placed on the temporary disability retired list; or (2) is retired with pay for any other reason, or immediately following at least 8 years of continuous active duty (no single break therein of more than 90 days), is discharged with severance pay or involuntarily released to inactive duty with readjustment pay. In addition, H.R. 266 provides that the cost of such storage for that period in excess of 1 year shall, except in the case of a member confined in a hospital or its vicinity undergoing medical treatment on date of separation, discharge, or release, be paid by that member.

The law does not presently require that the cited travel be performed within 1 year. However, the Comptroller General has recognized the long-standing administrative view that 1 year is a reasonable time for performing travel to a home in compliance with a military retirement order, unless such travel is prevented by circumstances beyond the control of the member. Comptroller General Decision B-144302, December 19, 1960, ruled that any extension of this time period could not be accomplished under the current law.

The Department of Defense supports H.R. 266.

At the present time many members are retiring, or must be retired, discharged, or released to inactive duty at an age when they desire to, or must, supplement their income. Often, however, it is necessary for the individual to acquire additional education or training in order to qualify for acceptable civilian employment. By virtue of their military experience and training, many such former members are extremely well qualified for the teaching profession, except for the required periods of formal schooling. Frequently, when the schooling, training, or other readjustment period requires more than 1 year, these former members are unable to select a home and travel thereto within the 1 year after retirement, discharge, or release to inactive duty. The Department of Defense believes that such individuals, who are undergoing additional academic training, will be of substantial assistance in alleviating the shortage of qualified personnel in the teaching profession and that the Secretary of the service involved should have the authority to extend the time period authorized for the selection of a home and travel thereto in these and other deserving cases.

Further, the Department of Defense believes that the extension of the 1 year period for the nontemporary storage and subsequent shipment of household effects of members who are confined in a hospital during the 1 year period from that date of release from active duty is both fair and equitable. The technical amendments appropriate to effect this change have been spelled out in the Department's letter to the chairman expressing the Department of Defense's support of this legislation.

Enactment of H.R. 266 will not cause a significant increase in budgetary requirements.

I appreciate this opportunity of appearing before the committee, and my colleagues and I shall be happy to answer any questions you may have on this bill.

(Subsequently, in executive session, the Committee voted to report H.R. 266, without amendment, as covered by Senate Report No. 1692.)

H.R. 5297

Chairman RUSSELL. The next bill is H.R. 5297 which would require the Secretary of each service to furnish notification in writing to reservists who complete 20 years of satisfactory Federal service. Payment of retired pay based on this statement could not be denied or revoked unless it were shown that the error resulted from fraud or misrepresentation, but any service improperly credited could be excluded from the retired pay.

This bill is intended to avoid the troublesome cases that arise when reservists discover that they lack a few months or a few days of having 20 years of satisfactory Federal service, but this discovery is made too late for them to do anything about it.

(H.R. 5297 follows.)

[H.R. 5297, 89th Cong., 2d sess.]

AN ACT To amend title 10, United States Code, to limit the revocation of retired pay of members of the armed forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1331 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(d) The Secretary concerned shall provide for notifying each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice must be sent, in writing, to the person concerned within one year after he has completed that service."

SEC. 2. Chapter 71 of title 10, United States Code, is amended as follows:

(1) By adding the following new section at the end thereof:

"§ 1406. Limitations on revocation of retired pay

"After a person has been granted retired pay under chapter 67 of this title, or has been notified in accordance with section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 1331(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person. The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date he is granted retired pay."; and

(2) By adding the following new item at the end of the analysis:

"1406. Limitations on revocation of retired pay."

SEC. 3. Notwithstanding section 1406 of title 10, United States Code, as added by this Act—

(1) the granting of retired pay to a person under chapter 67 of that title is conclusive as to that person's entitlement to such pay only if the payment of that retired pay is begun after the effective date of this Act; and

(2) a notification that a person has completed the years of service required for eligibility for retired pay under chapter 67 of that title is conclusive as to the person's subsequent entitlement to such pay only if the notification is made after the effective date of this Act.

Passed the House of Representatives July 18, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness on this bill is Capt. J. W. Darroch, Deputy Assistant Chief of Naval Personnel for Naval Reserves and District Naval Affairs.

Captain Darroch, you may proceed.

STATEMENT OF CAPT. J. W. DARROCH, DEPUTY ASSISTANT CHIEF OF NAVAL PERSONNEL, NAVAL RESERVE AND DISTRICT NAVAL AFFAIRS

Captain DARROCH. Mr. Chairman and members of the committee, I am Capt. J. W. Darroch, U.S. Navy, Deputy Assistant Chief of Naval Personnel for Naval Reserve and Naval District Affairs, Bureau of Naval Personnel and, as spokesman for the Department of Defense, welcome the opportunity to present the Departments' views on H.R. 5297.

The purpose of the proposed legislation is to make it a requirement that the respective service Secretary notify, in writing each reservist who has completed at least 20 years of satisfactory Federal service for retirement with pay as described in section 1331(a)(2) of title 10, United States Code. This notification would be made within 1 year after he has completed the required service. Additionally, it would provide that once retirement pay had commenced or the Secretary had notified the individual he had completed the required service, his eligibility for retired pay may not be denied or revoked because of error unless it resulted from fraud or misrepresentation by the person concerned. Should an error, not resulting from fraud or misrepresentation, be later discovered, the number of years of creditable service may be adjusted to correct such error, however eligibility for retired pay would not be voidable. Entitlement under the proposed legislation would only be effective dor determinations made after the effective date of the act.

Public Law 810, 80th Congress, provided for retirement with pay of officers and enlisted personnel of the Reserve components of the Armed Forces. Those who complete a total of 20 years of satisfactory Federal service have met the basic requirements, entitling them to retired pay upon application at age 60.

While 20 years of satisfactory Federal service has been recognized as a significant milestone in the career of a reservist, the variety of ways in which credit may be earned with the inherent complicated method of computation, as set out in section 1332 of title 10, based on a point system, often leaves the reservist in serious doubt as to whether he has in fact passed this milestone.

The services have, by a variety of administrative procedures, attempted to keep an accurate and up-to-date record of the progress of the reservist and advise him of his status in regard to the completion of the required satisfactory Federal service. Nevertheless, there have been cases where the reservist has received erroneous information

that he has attained the required number of years or has miscomputed these years himself and, relying thereon, has ceased participation in the Reserve program. Consequently, upon his application for retired pay at age 60, which may be some 15 years later, the error is discovered and because of his age or other reason he is not able to renew Reserve participation to acquire the necessary service and thus loses his retirement pay.

This situation has resulted in an appeal from the Reserve community for a system of notification which will be final and conclusive. The services are not able to grant this, because without legislation the administrative determination remains subject to final review according to title 10, United States Code.

Accordingly, the Department of Defense supports enactment of H. R. 5297.

Chairman RUSSELL. Any questions for the captain?

Senator SALTONSTALL. Yes, Mr. Chairman.

What happens, Captain, if there is a raise in retired pay or the general law is changed?

As I read this bill, once the Secretary has notified the Reserve officer—

Chairman RUSSELL. Not necessarily an officer.

Senator SALTONSTALL. The Reserve person, the Reserve officer or man—that he has completed his service, that is going to be within 1 year and that is final and cannot be changed, and is not subject to any alteration unless it is something through fraud. I was just curious to know this.

Supposing a law was changed in some way. Does this notice still remain final, or must a law indicate that it can be changed. It seems to me the finality of it goes pretty far.

Captain DARROCH. It is final, Senator. It is to protect the individual, though, from an administrative error. As it is now, through an administrative error, he can have no retirement pay at all. An example, I think, might clarify that point.

The man who has done 19 years of service thinks he has done 20. When it comes time to collect his retirement pay at age 60, under the present law he receives nothing when error was discovered.

Under this change, he would receive his retirement pay, but it would be based on 19 instead of the requirement of 20.

Chairman RUSSELL. It would not have any effect in the highly unlikely event of Congress repealing the retirement laws. This would not stop it at all.

Captain DARROCH. No, sir.

Chairman RUSSELL. Congress could likewise repeal this one.

Captain DARROCH. It is really to protect the individual from routine administrative errors that do occur in a system of computation that is very complicated.

Senator SALTONSTALL. What you are saying in substance is that this is final under the law at the time it is retired, but if there is any change in the law or the retirement laws are repealed, which of course is utterly unlikely, he would be subject to those changes.

Captain DARROCH. Yes, sir.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Cannon.

Senator CANNON. No questions.

Senator YOUNG. No questions.

Senator INOUE. No questions.

Senator STENNIS. No questions.

Senator BYRD of Virginia. No questions.

Chairman RUSSELL. I wish to state that Mr. John H. Pratt, the judge advocate general of the Marine Corps Reserve Officers Association, has forwarded his statement in support of this bill.

Without objection, Mr. Pratt's statement will appear in the record.

Thank you very much, Captain.

Captain DARROCH. Thank you, sir.

(The statement of Mr. Pratt follows:)

MORRIS, PEARCE, GARDNER & PRATT,
Washington, D.C., October 7, 1966.

Re H.R. 5297.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR RUSSELL: I am happy as the Judge Advocate General of the Marine Corps Reserve Officers Association to record the solid support of the Association in favor of the passage of the above bill which was approved by the House on July 18, and referred to your Committee. This legislation, which would require the Secretary of the service concerned to notify each person who has completed the years of service required for eligibility for retired pay, would make such notification conclusive as to the person's subsequent entitlement to such pay. It would also make the granting of retired pay conclusive as to such person's entitlement to such pay. These provisions are prospective in application.

The need for this legislation is a matter of long standing. We have heard of numerous cases of hardship which have resulted when an error has been discovered long after the individual has left the service and placed it beyond his power to make up the time of satisfactory Federal service needed for retirement. This bill makes it the duty of the respective Service Secretary, within one year after the required time has been completed to so notify the reservist.

Thanking you for your assistance in this matter and with every good wish, I am

Sincerely,

JOHN H. PRATT,
Judge Advocate General, Marine Corps Reserve Officers Association.

Chairman RUSSELL. The committee will now go into executive session.

(Whereupon, at 11:25 a.m., the committee retired into executive session.)

(Subsequently, in executive session, the committee voted to report H.R. 5297, without amendment, as covered by S. Rept. No. 1693.)

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