

109TH CONGRESS
1ST SESSION

H. CON. RES. 36

CONCURRENT RESOLUTION

Expressing the continued support of Congress for equal access of military recruiters to institutions of higher education.

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Whereas section 8 of article I of the Constitution commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces;

Whereas the Nation's security interests demand high levels of military personnel readiness, which in turn demand cost-effective military recruitment programs;

Whereas military recruiting on the Nation's university campuses is one of the primary means by which the Armed Forces obtain highly qualified new military personnel and is an integral, effective, and necessary part of overall military recruitment;

Whereas a lack of cooperation by institutions of higher education with the legitimate pursuit of the Federal military recruiting function carries with it the harmful effect of increasing Federal spending to achieve the required outcome, while at the same time compromising military personnel readiness and performance, which in turn conflicts with Federal responsibilities to provide for the Nation's defense;

Whereas military recruiting will be significantly harmed if military recruiters are denied access to campuses and students that is at least equal in quality and scope to the access provided to any other employer;

Whereas on-campus recruiting and ready access to students are key components of recruiting highly qualified new employees for any enterprise and are recognized as such by both institutions of higher education and employers and requiring the Armed Forces to rely exclusively on alternative recruiting methods would adversely affect the ability of the Armed Forces to attract the most qualified applicants;

Whereas any reduction in performance by the Armed Forces amidst the present national emergency declared by the

President on September 14, 2001, operates against the national interest;

Whereas the Congress has chosen over time to appropriate funds for a variety of Government programs to be provided to institutions of higher learning, but those taxpayer funds are not an entitlement to any college or university and can be provided subject to conditions and criteria placed on those funds by Congress.

Whereas acceptance of Federal funding carries with it an expectation of support and respect for the laws of the Nation, including section 983 of title 10, United States Code, relating to the support of military recruiting and Reserve Officers Training Corps functions by certain educational institutions;

Whereas Congress has acted to legislatively craft a safeguard for military recruiting in section 983 of title 10, United States Code, by linking Federal funding of educational institutions to the willingness of those institutions to abide by a rule of access by military recruiters to campuses and students that is at least equal in quality and scope that is provided by any other employer;

Whereas the Government suffers irreparable injury any time it is prevented by a court from effectuating statutes enacted by Congress, the representatives of its people, and any obstruction against enforcement of section 983 of title 10 of the United States Code will not only divest the Department of Defense of a legislatively crafted recruiting safeguard but also will inflict grave harm on the Nation's military readiness and the military's ability to recruit sufficient numbers of high-quality personnel; and

Whereas the consequences specified in section 983 of title 10, United States Code, relating to a denial of certain Federal funding for failure to offer support of military recruiting and Reserve Officers Training Corps functions, are instrumental to the achievement of military performance in satisfaction of the national interest and the Constitutional duties of the Congress: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That —*

3 (1) Congress remains committed to the achievement
4 of military personnel readiness through vigorous
5 application of the requirements set forth in
6 section 983 of title 10, United States Code, relating
7 to equal access for military recruiters at institutions
8 of higher education, and will explore all options necessary
9 to maintain this commitment, including the
10 powers vested in it under article I, section 9, of the
11 Constitution;

12 (2) it is the sense of Congress that the executive
13 branch should aggressively continue to pursue
14 measures to challenge any decision impeding or prohibiting
15 the operation of section 983 of title 10,
16 United States Code; and

17 (3) Congress encourages the executive branch
18 to follow the doctrine of non-acquiescence and not

1 find a decision affecting one jurisdiction to be bind-
2 ing on other jurisdictions.

Passed the House of Representatives February 2,
2005.

Attest:

Clerk.