

Mr. SKELTON. Mr. Kyl.

Mr. KYL. Thank you.

Just a question or two. Do you have the personnel and other resources necessary to do the search in a fashion that we would both agree would be timely?

Ms. FITES. Nobody ever has enough resources to do things. We have a lot of resources put against it. It will still take a while to get through all of these records. We are committed to getting it done, and I can't at this time forecast when we will be finished.

Mr. KYL. But there is nothing in particular that you would be asking us for in order to make sure you could get the work accomplished?

Ms. FITES. No.

Mr. KYL. OK. What is the Defense Department's position on the bill that Mr. Goss came to testify in behalf of?

Ms. FITES. I apologize to tell you we don't have a Defense Department position yet, but I am committed to going back and seeing that you get one shortly.

Mr. KYL. All right. Thank you.

In connection with that, I would be interested to get your evaluation as to any distinctive factors different from what you are doing today that would be required by that legislation. Do you see anything that would significantly alter what you are currently doing?

Ms. FITES. No.

Mr. KYL. So adopting that legislation would not be a significant departure from what you are already committed to doing?

Ms. FITES. No, it would not.

Mr. KYL. OK. Thank you very much.

For the benefit of Mr. Goss who just arrived, the testimony was just concluded, and I ascertained two things I think that are important: number one, that the Defense Department is committed to proceeding to obtain all of the information and at this point wouldn't ask for any additional resources to accomplish that task; and, second, it doesn't see any significant difference between the task that they are committed to performing right now and that which is called for in your legislation. They will favor us with their official view on the legislation as soon as they can come to a conclusion as to what that is.

Mr. Goss. Thank you very much, Mr. Kyl. That is welcome news.

Mr. SKELTON. Any other questions?

I have one.

Mr. Lancaster, do you have a question?

Mr. LANCASTER. Please go ahead, Mr. Chairman. I do have questions.

Mr. SKELTON. All right. I will ask this to Mrs. Fites.

Do you feel it should be the responsibility of the Department of Defense to notify each individual exposed to mustard gasses in connection to testing or do you feel it should be the responsibility of the individual to file a claim with the Department of Veterans Affairs?

Ms. FITES. We first have to identify what individuals were exposed. We have a commitment to notifying the individuals we find that are exposed, and we would then tell them how to apply to the Department of Veterans Affairs if they have a problem.

Mr. SKELTON. Thank you.

Mr. Lancaster.

Mr. LANCASTER. When Secretary Perry issued his memo with regard to these individuals who were exposed to chemical weapons testing, he apparently made access available to those persons. What kind of response have you had from people exposed? Has there been a large number who have asked for information?

Ms. FITES. There hasn't been a large number to date, but we do continue to get questions from people, and we try our best to answer their questions and to refer them to the appropriate place to apply for compensation.

For example, if there are civilians, they would go to the Department of Labor instead of the Department of Veterans Affairs, and we try to provide them all of the information we have, and we try to search through any records we can find to find out if they corroborate what they are saying.

Mr. LANCASTER. Were most of the individuals, in fact, subject to testing or are you finding a lot of people who have ungrounded fears?

Ms. FITES. I can't say we have found anyone that has ungrounded fears. We have not been able to confirm in all cases. We haven't been able to find records of experiments for all cases. But we are continuing to look.

Mr. LANCASTER. Do you have any sort of proactive program to actually notify the more than 4,000 people whom you have identified by your search thus far that you have found were subject to testing and need to follow up?

Ms. FITES. We will have—we have not notified them yet because we are still in the verification stage and entering the names onto the database.

Mr. LANCASTER. You are not doing it as you find them, but are going to wait until you have completed the research?

Ms. FITES. No. Once we get the 4,000 that we have identified now up on computers and cross-linked to other files, we will start trying to notify them, and then we will continue to add names as we get more information.

Mr. LANCASTER. Now, Secretary Perry's memo and this legislation speaks only to chemical exposure.

Ms. FITES. Right.

Mr. LANCASTER. How about these other people who were subjected to testing, like LSD, to say nothing of nuclear testing? Is there to be a similar program of searching the records and notifying them when they might not otherwise be aware of that testing?

Ms. FITES. I believe you are aware of the major interagency effort on the radiation testing.

Mr. LANCASTER. Right.

Ms. FITES. We are working very closely with them. As we go through these boxes of records, anything else we find we are going to document and catalog and identify the people to the extent that we can.

Mr. LANCASTER. How about the LSD people? That is really separate from the radiation experiments.

Ms. FITES. I know we have found some of the LSD files. I really haven't seen them myself so I don't know what is in them.

Mr. LANCASTER. But at this point there is no focused examination of the records nor any program that is specifically focusing on other experiments other than chemical and radiation?

Ms. FITES. No. But we are trying to capture the information so that we can decide what to do with it. We don't—we are concerned about all of this. We want to right this kind of cold war legacy to the extent that we can.

Mr. LANCASTER. One question, if I may, Mr. Chairman, of Representative Goss.

Mr. SKELTON. You may.

Mr. LANCASTER. Your legislation speaks only to mustard gas. How about other exposures that might be equally debilitating? Should we not at the same time that we are addressing mustard gas address testing for other hazardous substances that military personnel may have been exposed to?

Mr. GOSS. Indeed we should; and, in fact, we are.

I testified last week before Chairman Bryant's, judiciary subcommittee, which is in fact, looking at the full range of testing including drugs, radiation lewisite and other agents.

Mr. LANCASTER. But your legislation speaks only to mustard.

Mr. GOSS. Mine speaks primarily to mustard because that is what the great evidence has been for the victims who have come forward. It is not meant to exclude anybody else. It was meant to speak to that area primarily because that was the area of testing that was claimed by people who were very inarticulate. What they were saying is we participate in some testing and we are not quite sure what it was.

Then some of the more aware of those victims who finally came out from underneath this veil of secrecy started to say things that caused other people to think in their minds that they, too, may have been involved. Some of those tests apparently involved lewisite so we have lewisite victims.

We had a ship log from Bari, Italy which indicated the casualties by who handled what when. It is however, a very narrow line to cross because we don't want to arbitrarily rule anything out.

Because we have already gotten some relief for some individuals who came forward early, is we found we had a class of people that was big enough here to provide legislation for as a class. We also discovered that there is a compensation question.

At about the same time that this all began to emerge, the revelations about radiation testing and other types of testing emerged. Of course, previously we had Agent Orange and the whole downwinders thing. So it had a series of things in line of things that have happened here and various approaches to deal with it.

All I have tried to isolate out in this particular legislation are really two things: one, the cooperation of the Defense Department to find the files and notify the people. We have made great strides in that. The other is to say thank you for what you have done. We recognize what you have done. We recognize you are a victim, and we are offering you commendation in the grateful thanks of your Nation. That is what we are trying to accomplish in this.

That does not mean additional things are not going to happen. That is only the scope of this legislation.

Mr. LANCASTER. Thank you.

Mr. SKELTON. Any other questions of these witnesses?

If not, we certainly thank you for your testimony and also your patience in coming back.

Our next bill is H.R. 3273, which has been introduced by Congressman Mike Kreidler. For the record, without objection, I would like for my opening statement and the opening statement of Ranking Member John Kyl to also be put into the record in full.

[The following information was received for the record:]

PREPARED STATEMENT OF HON. IKE SKELTON

This afternoon we begin the first in our series of subcommittee hearings for the fiscal year 1995 authorization cycle. As soon as I have had the opportunity to consult with Mr. Kyl, we'll firm up a hearing agenda from now through early May, when mark up is currently scheduled.

Today we have two items on the agenda: H.R. 1055, introduced by Congressman Porter Goss, concerning individuals exposed to mustard gas during World War II, and H.R. 3273, introduced by Congressman Mike Kreidler, concerning Reserve retirement. In each case, we will receive testimony, first, from the sponsor of the legislation and, second from a Department of Defense witness. I should note for the record that the Veterans' Affairs Committee has previously held hearings on mustard gas testing, and the Judiciary Committee held a hearing on the broader issue of human testing early last week.

Our first witnesses are Congressman Goss and Ms. Jeanne Fites, the Deputy Assistant Secretary of Defense for Requirements and Resources. They will be followed by Congressman Kreidler and Mr. Frank Rush, representing the Assistant Secretary of Defense for Reserve Affairs.

We welcome each of you and look forward to your testimony.

**PREPARED STATEMENT OF HON. JON KYL, A REPRESENTATIVE FROM ARIZONA,
RANKING MINORITY MEMBER, MILITARY FORCES AND PERSONNEL SUBCOMMITTEE**

Thank you Mr. Chairman, I, too, join you in welcoming our colleagues, Mr. Goss and Mr. Kreidler, as well as the DOD witnesses, to testify today.

Mr. Goss has been an active and effective advocate for veterans, particularly those exposed to chemical weapons as part of U.S. Government testing during World War II. I applaud his efforts and look forward to his testimony.

Mr. Kreidler seeks to change the law related to Reserve retirement in order to remove a potential inequity created for military personnel who leave Active Duty with 13 to 19 years of service who wish to join the Reserve components. Mr. Kreidler, as a member of the Army Reserve yourself, your expert testimony is welcome.

Mr. Chairman, since any further elaboration by me will only delay presentation of worthy issues to the subcommittee, I recommend that we now hear from today's witnesses.

Mr. SKELTON. At this point we welcome our colleague and Mr. Frank Rush.

Mr. Kreidler.

**STATEMENT OF HON. MIKE KREIDLER, A REPRESENTATIVE
FROM WASHINGTON**

Mr. KREIDLER. Thank you very much, Mr. Chairman.

Before you, you have H.R. 3273, a bill I introduced and have labeled the Military Reserve Retirement Fairness Act. It repeals the requirement that reservists who have Active Duty time serve at least 8 years in the Reserves in order to qualify for a pension. That effectively means that if you served 13, 15 or 19 years on Active Duty, left the active Duty military and then went to the Reserves that you would still be obligated to serve 8 years in the Reserves.

For example, if you had 19 years in the Army, Active Duty military, then left the military, voluntarily or otherwise, you would be obligated then to serve 8 years in the Reserves in order to be quali-

fied for a pension at age 60. That, in effect, means that you would have served a total of 27 years.

I am a reservist. I served Active Duty and as a reservist for a total of 20 years, but that would not be the same requirement for somebody who had over 13 or more years of Active Duty time. They would have to serve more than I did.

The requirement probably made sense in a different era, but this is a different time. At one time we were talking about the Cold War. Today, we obviously, are in a different frame of mentality. We are looking at downsizing the military. We are looking at some budgetary constraints that are certainly forcing some new realities upon this Congress and this country.

Today, we find that the career opportunities for somebody in the military are not what they were a few years back. It means that you have limited opportunities for promotion in many cases and can, indeed, be passed over and asked to leave far short of reaching the 20 years of Active Duty time.

Sometimes you can also see the handwriting on the wall whereby you are looking at a situation where you know you are not going to be able to see a promotion and some opportunities ahead of you, and, therefore, you leave the active Duty military. But if you leave with 13 or more years of Active Duty time, you are going to serve more than the 20 years that is required of people like myself.

Also, Reserve units are difficult to come by—particularly if you are a senior non-commissioned officer or a senior officer—and trying to get into a Reserve slot is not an easy position to attain. By requiring additional time, you are, obviously, filling those slots up with people who are trying to get their total number of years so that they might qualify for a pension.

Qualifying for a Reserve pension means that you do not get any benefits until the age of 60. You are going to have a minimum of 20 years, more than 20 years, obviously, if you have more than 13 years of Active Duty time but a minimum of 20 years to qualify.

There is one provision that the Department of Defense has done that allows individuals up to 15 years of Active Duty time to retire early. This early requirement program is on a selective basis, as I am sure this committee well knows. At the same time, for those individuals who are serving on Active Duty who may have been ousted from the military for one reason or another, reduction in force, inability to be promoted in their position, whatever it might be, but have 13 or more years, there still is this 8-year requirement.

My bill here is one that comes forward with the idea that the times have changed. It is time to remove that 8-year requirement and give these individuals an opportunity to obtain benefits that would have been available to them much more readily in a different time than what we have now with the downsizing of the military.

In support of H.R. 3273, I have letters from the Military Coalition, the American Legion, Noncommissioned Officers Association, and the Association of the U.S. Army that I would like to submit for the record, Mr. Chairman.

Mr. SKELTON. Without objection.

Mr. KREIDLER. I appreciate the chance to come here and present this bill, Mr. Chairman, and we would certainly hope that it can be acted upon.

Mr. SKELTON. Thank you very much. Obviously, you have given a lot of thought and effort in this regard.

PREPARED STATEMENT OF HON. MIKE KREIDLER

Mr. Chairman and members of the subcommittee, I greatly appreciate your willingness to consider my bill HR 3273, the Military Reserve Retirement Fairness Act.

HR 3273 would repeal a provision of current law that requires a military reservist to serve 8 years, in addition to any period of regular service, in order to qualify for retirement benefits.

This requirement means that a person who has spent 13, 15, or even 19 years in active service, and then transfers to the reserves, must spend an additional 8 years in reserve status before qualifying for any retirement benefits at all. For example, a 19-year veteran, who transfers, would have to serve a total of 27 years before qualifying for benefits.

Mr. Chairman, I became aware of this situation when a former serviceman approached me last summer and told me about this problem. I was surprised to hear that there was such a rule and it didn't seem fair to me.

I have no doubt that the 8-year requirement made sense at one time, when the Defense Department was trying to retain career personnel for a full 20 years of active service. But today's military is dramatically different. In response to tremendous political changes in the world, the United States has been forced to reduce military spending as part of our effort to reduce the deficit.

However, a painful consequence of this spending reduction is the need to reduce personnel. Many of these men and women made a decision at a young age to make the military their career. I think everyone in this room will agree that the military is not an easy career. The burdens of service go beyond the job itself -- from the toll on family life to frequent dislocation and uncertainty about the future.

Today the 8-year requirement only works a hardship on men and women who would rather stay in active service, but instead must spend additional years in the reserve component to qualify for the pension benefits they have earned. At the same time, the eight-year requirement discourages voluntary movement from active to reserve status -- the wrong incentive when downsizing is required.

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This bill would entitle those retiring from the reserve component to benefits, upon reaching the age of 60, after any combination of active and reserve service totaling 20 years. Benefits would continue to be based on the current point system that recognizes the difference between active and reserve service.

Mr. Chairman, in today's world, the 8-year requirement only penalizes the men and women who have served our country with honor and hoped to do so for 20 years or longer. The Military Reserve Retirement Fairness Act would replace this penalty with a demonstration of our good faith commitment to the men and women of our armed services.

Mr. Chairman, I have received letters of support for HR 3273 from The Military Coalition, The American Legion, the Non Commissioned Officers Association, and the Association of the United States Army. I ask that they be included in the record.

I sincerely hope this legislation will earn your support and, again, I appreciate your willingness to review HR 3273. Thank you.



THE MILITARY COALITION

201 North Washington Street
Alexandria, Virginia 22314

February 4, 1994

The Honorable Mike Kreidler
U.S. House of Representatives
1535 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Kreidler:

The Military Coalition, (roster enclosed) a consortium of military and veterans' associations representing 3.75 million members of the seven uniformed services, is writing to state our strong support for H.R. 3273, the Military Reserve Retirement Fairness Act. The Coalition appreciates your introducing this long overdue piece of legislation to repeal the minimum eight-year reserve service requirement.

For no reason other than mandatory active force reductions, active careers are being terminated. Yet, many of the individuals being forced to leave the active components are sought on a priority placement basis for affiliation and continued military service in the reserve components. It is widely recognized that many of the talented people involuntarily leaving active military service possess the skills and experience needed to increase reserve component readiness.

The Coalition believes that the eight-year minimum reserve service requirement has outlived its useful purpose. By any measure, the requirement is counter-productive to the goal of enhancing reserve component readiness, and thereby overall military readiness. It serves as a deterrent to the highly experienced and talented individuals with over twelve years of service now being forced to leave active service who might otherwise be attracted to the reserve components..

The Coalition believes that the Military Reserve Retirement Fairness Act which allows qualification for reserve retirement after completion of any combination of active and reserve service totaling 20 years is a positive measure to maximize military readiness.

Sincerely,

Paul W. Arcari

Paul W. Arcari
Colonel, USAF (Ret)
The Retired Officers Assn
Co-Chairman
(703) 549-2311

Michael Ouellette

Michael Ouellette
Sergeant Major, USA (Ret)
Non Commissioned Officers Assn
Co-Chairman
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Enclosure

Mr. SKELTON. Let me ask this question before we go to our next witness, if I may. Have you attempted to cost this out or is there any way you could do that?

Mr. KREIDLER. We requested CBO to give us an estimate. Their preliminary one was that they thought it was relatively inconsequential, but, as we all well know, the Congressional Budget Office is somewhat overwhelmed these days and are not as timely as they might have been on other occasions to give us the accurate numbers as they see it.

Mr. SKELTON. I am sure the other Members will have questions for you in just a moment.

Mr. SKELTON. Mr. Frank Rush.

**STATEMENT OF FRANK RUSH JR., PRINCIPAL DIRECTOR,
MANPOWER AND PERSONNEL, OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE FOR RESERVE AFFAIRS**

Mr. RUSH. Thank you, Mr. Chairman. I am pleased to be here today to discuss H.R. 3273. I do have a short prepared statement which I would ask be placed in the record.

Mr. SKELTON. Without objection.

Mr. RUSH. With your permission, I will summarize briefly.

This Nation's Reserve retirement system remains the only such system in the world. Since its enactment in 1948, it has served this Nation and our armed forces well. It is a major factor in the success of our National Guard and Reserve Forces.

Reserve retired pay does begin at age 60 for those who qualify. Qualification requires 20 good years of service, years in which 50 points have been earned by the member, and that the last 8 years of service be in a Reserve component. The requirement that the last 8 years of qualifying service be in a Reserve component was intended to provide an incentive for members of the Reserve to perform continuous Reserve service.

The House report on the 1948 act which authorized our Reserve retirement system stated that the 8-year provision was, and I quote, essential in order to avoid the possibility that personnel separated from the regular service who are lacking one or 2 years necessary to qualify for regular retirement shall not be permitted to avail themselves of Reserve retirement benefits merely by serving in the Reserve for one or 2 years after separation from the regular service.

The Department of Defense believes that the 8-year requirement remains sound and that a change to this long-standing requirement is not necessary in order to help us manage the drawdown.

Thank you, Mr. Chairman.

Mr. SKELTON. Thank you, Mr. Rush.

PREPARED STATEMENT OF FRANCIS M. RUSH, JR.

Mr. Chairman and members of the subcommittee, I am very pleased to appear before you today to discuss H.R. 3273, the Military Reserve Retirement Fairness Act. H.R. 3273 would amend title 10, U.S. Code to revise the requirements for eligibility under chapter 67 of that title for receipt of retired pay for nonregular service in the Armed Forces. The bill would change the service requirements for eligibility for retired pay for nonregular service by eliminating the current requirement that the last 8 years of qualifying service for retirement must be service in a Reserve component. With this revision, the law would no longer ensure that individuals

qualifying for Reserve retirement had completed substantial amounts of Reserve service and had made a significant contribution to the Reserves.

A review of the legislative history and subsequent interpretations of section 1331(a) of title 10, U.S. Code, makes clear that the current statutory requirement that the last 8 years of qualifying service be in a Reserve component was intended to provide an incentive to members of the Reserve components to perform continuous Reserve service. This provision is essential in order to avoid the possibility that personnel separated from Regular service who are lacking 1 or 2 years necessary to qualify for retirement based on their active service not be permitted to avail themselves of Reserve retirement benefits merely by serving in the Reserves for a short period following separation from Regular service.

H.R. 3273 would apply only to Members who complete 20 years of service after the date of its enactment. Temporary authority, codified as section 1331a of title 10 and effective through fiscal year 1999, authorizes qualification for nonregular retirement at age 60 for certain members of the Selected Reserve after 15 (vice 20) years of qualifying service. This temporary authority has caused some to question if the 8 year requirement should be modified. The Department has considered this possibility and concluded that a change to the long-standing, 8-year requirement is not essential to manage the drawdown. We believe that the rationale for the 8 year requirement remains sound and that the very substantial program of voluntary and involuntary separation benefits, temporary early retirement authority, and transition benefits and assistance which have been put in place provide substantial fairness to those members leaving active service during this period.

It should also be noted that this legislation would have PAYGO cost implications, by increasing outlays from the Military Retirement Fund. Therefore, if the bill were enacted, its deficit effects could contribute to a sequester of mandatory programs.

Mr. SKELTON. Mr. Kyl.

Mr. KYL. Thank you, Mr. Chairman.

I would, first of all, pose a question to my colleague. I am not sure I understand what it is about the situation today that is different from the past. I understand during a drawdown period where we are trying to reach a level there may be some dislocation or disruptions in certain ranks during certain years. In each of our services it hasn't been easy to calibrate the number of people with years and service of different grades.

But once you achieve a level of stability, which ought to be about this year in terms of the drawdown, what is it that makes the situation different than it was in years past, before this ramped period of drawdown? People aren't being artificially asked to leave the service after this year. So I am not sure I understand what is different now than, say, in the 1960s or 1970s or 1980s.

Mr. KREIDLER. Well, certainly, right now promotion to senior positions is more difficult and the chances of being passed over now are greater. I guess you will reach a point of some sort of stability here where you are stabilizing the forces, but that certainly isn't the case right now. I can assure you there are many people that are sitting out there right now that are trying to complete 20 years. Even if they reach a stable position there just plain aren't going to be as many slots, and that is going to continue for a number of years ahead of us for those senior positions, whether they are commissioned or noncommissioned officers. As a reservist, I know that is going to be in place for several years to come until perhaps there is some degree of stability that is reinstated.

It is certainly true today, and it will be true for some time in the future.

Mr. KYL. Is there any period of time less than 8 years but more than one year that would be appropriate? Is there any sliding scale concept here that might also be applied?

Mr. KREIDLER. Well, I think we need to look at the very different situations that apply to different MOs or different job categories in the military. I think the military already has identified some of those jobs and are offering the early retirement for those right now. They only extended an early retirement selectively to servicemen with up to 15 years of Active Duty time.

Obviously, we see a number of individuals who are looking at either being passed over or facing a reduction in force that is going to require them to leave the military. This is not voluntary on their part. They are being told to leave the military. There are certainly a number of places where you see some excess supply of whatever personnel we are talking about.

Mr. KYL. In that regard, though, isn't the Reserve the mirror image of the active Duty force? In other words, could you end up with an awful lot of high-ranking officers going into the Reserve, people that have gotten in 17, 18, 19 years Active Duty and then have 1, 2, 3 or 4 years left? They are high-ranking. The Reserves don't necessarily need a whole bunch of high-ranking people. So it skews the composition of the Reserves at that point. What is your response to that?

Mr. KREIDLER. I think you are looking at something that is going to happen and is happening anyway. What we are talking about here are individuals that are leaving voluntarily because they either have been passed over for promotion or are looking at a dead end ahead of them, that says in a couple of years I am not going to be promoted and, therefore, I better opt now to get out. Maybe the economy is a little bit better today than it will be tomorrow, whatever the reason is. Or there is a reduction in force across the board, regardless of the promotion opportunities that affected you.

Those individuals are coming out of the military and are going to look to the Reserves for assignment if they want to have a pension.

I don't think knocking that out is going to dramatically change whether they look to complete—the number of years, prerequisite years for retirement with benefits at age 60 or not. So I don't see it making any difference in the raw numbers of individuals who are going to be there. Albeit, you are absolutely correct, they are going to be more senior individuals.

Mr. KYL. Could I ask Mr. Rush to respond to the same questions that I have asked my colleague here, particularly starting with the question of what makes the situation different, say, in 1995 than it was in 1980 or 1985?

Mr. RUSH. Well, the one difference is the drawdown, and the second difference is the number of members who are leaving the service under the various separation benefits that have been provided by this committee and the Congress for active and Reserve Forces, particularly the voluntary separation incentive and the special separation benefit.

Now, while those are set up to be payments in lieu of qualifying for retirement, there is no restriction on affiliating with the Reserves. In fact, since January of 1992 through the end of the last fiscal year, there have been about 14,000 officers and 64,000 enlisted members who have separated and received the voluntary separation incentive, which is a stream of payments that—for twice

the number of years of Active Duty that the member has served, or the special separation benefit, which is a lump sum payment based upon the Member's pay grade and their years of service.

Of those, about 18 percent of the officers and 20 percent of the enlisted members are now serving in the Selected Reserve. The great majority of those have less, as you might expect, less than 15 years of active service. The total number with more than 15 years of active service—who have received either the voluntary separation incentive or the special separation benefit—is about 1,000.

In terms of the qualification and the 8-year rule, 8 years is not a magic number, but it still seems to us to make sense to require a member to have served a substantial period of time in a Reserve component in order to qualify for Reserve retirement at age 60.

Mr. KYL. Thank you.

Mr. KREIDLER. If I might add, arguably, that is not the reason it is there. It is to try to retain individuals on Active Duty. It is not to dissuade them from qualifying for a pension. It is to try to keep them to stay on Active Duty in their more senior years, short of getting the 20 qualifying years. Is that correct?

Mr. RUSH. The Reserve retirement?

Mr. KREIDLER. Yes. I mean the active Duty.

Mr. KYL. One of the reasons for the 8-year requirement is an incentive to stay in Active Duty.

Mr. RUSH. The 8-year requirement, yes, is twofold: continuous Reserve service, substantial period of Reserve service, and not to leave Active Duty simply because of a civilian employment opportunity or an unfavorable assignment or some other reason and then qualify for a retirement in any event.

Mr. SKELTON. Mr. Lancaster.

Mr. LANCASTER. If a person has received benefits of whatever kind; and then this bill is enacted into law; would a person then subsequently qualify for retirement as a reservist? How would they interface? Would there be any payback of those separation benefits or would they stand to benefit in both ways?

Mr. RUSH. Since the early 1960s, readjustment pay, severance pay, separation pay, including the voluntary separation incentives, all require a payback if a member qualifies for either an Active Duty retirement or any Reserve retirement, any purely military retirement. That payback is factored in so that the retired pay is reduced by the percentage of the pay that was based upon the active service until such time as the entire amount is paid back.

Mr. LANCASTER. Now, Mr. Kreidler, you have indicated that with the drawdown pretty much behind us now; that the people who will take advantage of this prospectively in the future are those who have perhaps been passed over or otherwise see that their future in the active force is not what it might be. Are these people who haven't made it on Active Duty the kind of people that we want to recruit into our Reserve program and allow them to take up slots when that might be taken up by a more highly-qualified person who is in the lower ranks of the Reserves who will not have the opportunity for promotion because a higher-ranking person has filled that billet through this method?

Mr. KREIDLER. Well, you still face the same kind of review in the Reserves.

Mr. LANCASTER. But they are already there. They are already an E-7, and you have an E-6 who is highly motivated, well-trained, has done a good job as a reservist, but their billet now is filled by this person who has come off of Active Duty who didn't make an E-9, and they are not going to be able to be promoted into that slot. Aren't we limiting some of the opportunities for promotion that our reservist might have otherwise?

Mr. KREIDLER. We are doing that already just with the drawdown and with the number of individuals coming out. I don't think you are going to impact those numbers of those individuals who are going to wind up in that position trying to seek a slot in the Reserves in order to qualify for a pension. They are going to be there one way or another, just because they have got enough Active Duty time already, and they are looking toward what do I need to do to qualify for a pension.

That is one reason why I think the CBO initially didn't see much of a cost impact.

Mr. LANCASTER. But does the Reserve program need more high-ranking officers and enlisted personnel at the present time? Is there not more than adequate numbers either in the pipeline in the Reserve program or those who would come in without this additional incentive of being able to retire without 8 years of duty in Reserves?

Mr. KREIDLER. Those of us who are in senior positions would say, no, there is plenty already. There is enough competition to keep us all there. But this legislation is not going to impact those numbers. We are not going to see more senior commissioned and noncommissioned officers lined up trying to seek Reserve slots with your retirement removed or if it is there.

Mr. LANCASTER. But I think you would. Because I think people who might say, well, if I could just serve 3 years and get a greater retirement, they might do that. But if they are facing 8 years, they would say, I am not going to do 8 years. I will just chuck it.

But I think you are going to have more people seeking billets in the Reserve if your legislation should pass. So I think you are going to clog the system.

Mr. KREIDLER. I think you will see a change. I don't mean to minimize it, but I don't see it as being a consequential number because we are looking at the individuals who would be toward the more senior end of the teams, let's say. I mean, they have got 15, 16 or 17 years in. Those individuals have a significant reason to want to seek a Reserve assignment, and the higher their number gets, the more beneficial it is to them.

If they have got 19 years of Active Duty time and need only one year then to qualify for a pension, they are going to serve that 8 years because if you take a look at what that pension is worth to them at age 60, they are going to do it whether they have to do 8 years or whether they do one year. The absolute numbers impact for those who would qualify is relatively low.

I was in a parade this last summer and that was really where I became aware of this 8-year requirement. I may have heard of it before, but it didn't really stick with me before this.

As I was sitting in the back of a convertible waiting for the parade to start, a guy walked up to me, and he identified himself as

a Reserve officer who had put in his 8 years after being passed over for promotion after 16 good years. He says, I thought I would be able to go in and put in 4 years in Reserves. Then I found out they had an 8-year requirement for me. He says, I put in the 8 years. I have got 24 good years, actually 25, he said. But, he says, it just didn't seem fair to me.

That is when I started to become aware of it. I don't think it will make a difference to most of these individuals. I don't think we will see a glut of new people coming.

Let me just say that on the issue of 8 years of continuous Reserve time, I don't want to diminish that as perhaps being something that would be considered a factor, as Mr. Rush has put forward, but I am not aware of that being a major issue.

When you wind up in the Reserves, particularly in the more senior positions, you are looking for billets or assignments wherever you can. You bop into a non-pay slot in a control group. You come back. You hope to catch a unit here. I know people that go halfway across the country to try to stay in a pay slot because it is more likely they can get promoted if they are in a slot like that.

So I am not sure the benefit here of continuous 8 years, of what that really represents, because you are really not, so to speak, in one assignment and so forth. Sometimes it is advantageous, the more Active Duty time they have had, because they have had senior experience behind them.

Mr. LANCASTER. Thank you.

Thank you, Mr. Chairman.

Mr. SKELTON. Thank you.

Mr. Rush, let me ask you. As currently written, the legislation applies only to individuals who complete 20 years of service after the effective date are leaving Active Duty, both voluntarily and involuntarily, and are joining the Reserves in order to qualify for retirement. Are we likely to receive complaints about inequitable treatment?

Mr. RUSH. I think, Mr. Chairman, that our experience has been that whenever you add a new benefit or change an entitlement or qualification procedure and you do it prospectively, that you always get cards and letters from those who went before, and who, for whatever reason, hadn't qualified and believe that it is only fair that that provision should apply to them as well.

Mr. SKELTON. Thank you very much.

Mr. KREIDLER. Mr. Chairman, if I could maybe respond to that, too.

I would just like to say that my impression is you would probably have less complaints about that as opposed to many of the other benefits, only because the individuals would seek extra time because of the requirement, but earn points for that period of time. Therefore, their pension is going to reflect a slightly higher positive gain.

So sometimes they don't complain quite as readily. They have got at least something at the end of the pipeline as a result, as opposed to some of the others where we go prospective.

The only prospective aspect is to say that individuals from this point forward would only be required to have 20 good years active

and Reserve as the bill is written, so it really isn't affecting somebody. If they have got that 20 years in, then they would be eligible.

Mr. KYL. Mr. Chairman, this is an intriguing issue which I hadn't thought of. I can see a lot of pros, a lot of cons, and think that this is something we want to look at very carefully. I appreciate you bringing it to our attention.

In one respect, I think a lot of the changes are behind us. Yet, in another respect, I think there are a lot of prospective changes. Just the mere fact that we have a much lower total number of Reserves and, therefore, units and, therefore, locations and, therefore, billets of one kind or another. That is another interesting aspect of this. It is not as easy to find a good place in the Reserves as it used to be with a more robust Reserve contingent. Also, the nature of the mission of the Guard and Reserve may be changing somewhat in relation to the kind of activation strategies that may be under study right now.

All of this has to be put into the mix, and raises some very interesting questions, so I appreciate you bringing it to our attention.

Mr. SKELTON. Mr. Rush, Mike, we thank you very, very much for being with us. We also thank our other witnesses, Ms. Fites, Mr. Goss, for your patience because of the vote. Certainly excellent of you to come over. We appreciate it.

[Whereupon, at 3:40 p.m., the subcommittee was adjourned.]

[The following prepared statement was submitted for the record:]

PREPARED STATEMENT OF CHIEF MASTER SGT. JAMES E. LOKOVIC, USAF (RET.),
DIRECTOR, MILITARY AND GOVERNMENT RELATIONS

Mr. Chairman and distinguished committee members, on behalf of the Air Force Sergeants Association (AFSA), I thank you for the opportunity to present our views. The legislative objectives being addressed by your committee are of special interest and concern to AFSA's 167,000 members.

We stand firmly in support of H.R. 3273, the Military Reserve Retirement Fairness Act. This legislation seeks to amend the current law that requires a military reservist to serve at least 8 years, in addition to any period of regular service, in order to qualify for retirement benefits.

This requirement means that a person who has completed a period of active service—regardless of the number of years—and then transfers to the Reserves, must spend an additional 8 years in reserve status before qualifying for any retirement benefits at all. For example, an 18-year Active Duty veteran who transfers from Active to Reserve status would have to serve a total of 26 years before qualifying for retirement benefits. This situation is clearly unfair.

We do feel the 8 year requirement made sense at one time, when the Defense Department was strongly encouraging career personnel to complete a full 20 years of active service. But, those days are behind us. In response to new political and economic realities, at home and abroad, the United States has been forced to reduce military spending and the size of our military establishment.

We believe all here recognize the extraordinary burdens our young men and women pledge to accept as part of a military career—from the toll on family life to frequent dislocation and uncertainty about the future, and to the commitment to sacrifice their lives, if called upon, to protect our great Nation.

The 8 year requirement clearly discourages voluntary movement from Active to Reserve status—the wrong message to send during a period of downsizing. Additionally, the 8 year requirement creates a hardship on men and women who would rather stay in Active service but, instead, must spend additional years in the Reserve component to qualify for the pension benefits they have earned.

H.R. 3273 would entitle those retiring from the Reserve component to benefits, upon reaching the age of 60, after any combination of Active and Reserve service totaling 20 years. We note that benefits would continue to be based on the current point system that recognizes the difference between Active and Reserve service. H.R. 3273 rewards what is earned, nothing more.

Mr. Chairman, in today's world, the 8 year requirement penalizes the men and women who have served our country with faith and honor. The Military Reserve Retirement Fairness Act would demonstrate to our members, and all active and retired military members, good faith and commitment to their well-being and an appreciation of their contribution to the security of our country.

In closing, Mr. Chairman, thank you for considering AFSA's views as you and your committee continue to examine fair, effective ways to adjust current laws to meet the requirements of the post-Cold War world.