STATEMENT OF SENATOR GORDON ALLOTT OF COLORADO
ACCOMPANYING THE INTRODUCTION OF A BILL TO AMEND SECTION 9 (d)
OF THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT

Mr. President: I introduce, for appropriate reference, a bill to amend Section 9 (d) of the Universal Military Training and Service Act to authorize jurisdiction in the Federal Courts in certain reemployment cases.

This bill is designed to clarify and confirm the jurisdiction with which the Federal Courts are vested to enforce the reemployment rights granted by Section 9 (g) (3) of the Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.) to certain reservists and persons who have been rejected for military service.

The Federal District Court for the District of Colorado, in the case of Christner v. Poudre Valley Cooperative, 134 F. Supp. 115, decided on July 13, 1955 that the court is without jurisdiction to enforce Section 9 (g) (3) which, unlike Sections 9 (g) (1) and 9 (g) (2), does not specifically refer to the rights and benefits provided by Section 9 generally.

The statute provides that employees covered by the Section (in the main, reservists called up for training duty only) shall be granted a leave of absence by their employers for the purpose of being inducted into, entering, determining physical fitness to enter or performing training duty in the Armed Forces. Upon their release from training duty or rejection, and after making proper application, these employees are entitled to be reinstated in their positions.

While comparatively few cases under Section 9 (g) (3) have been presented for litigation, the existence of a clearly recognized remedy in the Federal Courts under reemployment legislation is believed to be of vital importance in minimizing litigation and facilitating the administration and enforcement of this phase of the Act.

Section 9 (d) of the Act, as originally enacted in 1948, conferred jurisdiction upon Federal Courts to enforce compliance with the provisions of Sections 9 (b) and 9 (c) (1) of the Act. The Act, as it now stands, also includes three other Sections -- 9 (g) (1), 9 (g) (2) and 9 (g) (3) -- granting and defining rights. None of these sections specifically authorizes the Federal Courts to enforce the rights it describes.
However, Sections 9 (g) (1) and 9 (g) (2) -- which embrace inductees, enlistees and reservists on active duty -- provide that the persons affected shall be entitled to all reemployment rights and other benefits provided for by Section 9 of the Act for persons inducted under the Section. This reference would, of course, include enforcement rights under Section 9 (d).

An appeal from the Christner decision has been taken by the Department of Justice and is now pending in the Court of Appeals for the Tenth Circuit. However, the matter may not be finally resolved by this appellate court for many months. In the interim, as long as the decision of the District Court stands, reservists and rejectees covered by Section 9 (g) (3) of the Act may, in many instances, find reemployment delayed or denied upon their return from the Armed Forces. In other jurisdictions, employers and the courts might tend to be influenced by the precedent of the Christner case. The reversal of the District Court would still leave a situation in which the question of jurisdiction can be raised in each of the other nine circuits. Thus, the thousands of reservists who are called up periodically to serve short periods of training duty, or merely for the determination of their physical fitness, may be confronted with obstacles which Congress sought to eliminate in facilitating their orderly return to civilian employment. This result would be disruptive of the reemployment pattern which is so important a feature of the Act.

To prevent hardship to trainees and rejectees who may be denied rights because of the Christner decision and to guide employers who might incur liability through following that decision, I am introducing this bill in the hope that this correction will be approved by Congress as soon as possible.

A BILL

To amend Section 9 (d) of the Universal Military Training and Service Act to authorize jurisdiction in the Federal Courts in certain reemployment cases.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 (d) of the Universal Military Training and Service Act, as amended, is amended by striking out "subsection (b) or subsection (c) (1)" and inserting in lieu thereof "this section".

Sec. 2. The amendment made by the first section of this Act shall take effect as of June 19, 1951.