

**AMENDMENT TO RULES COMM PRINT 114–51**  
**OFFERED BY MR. GALLEGO OF ARIZONA**

At the end of subtitle C of title V (page 131, after line 2), add the following new section:

1 **SEC. 530. CODIFICATION OF EQUITY CONSIDERATIONS IN**  
2 **REVIEW OF DISCHARGE OR DISMISSAL OF**  
3 **FORMER MEMBERS OF THE ARMED FORCES.**

4 Section 1553 of title 10, United States Code, is  
5 amended by adding at the end the following new sub-  
6 section:

7 “(f)(1) A discharge shall be deemed to be equitable  
8 unless one of the following applies:

9 “(A) In the course of a discharge review, it is  
10 determined that the policies and procedures under  
11 which the applicant was discharged differ in mate-  
12 rial respects from policies and procedures currently  
13 applicable on a service-wide basis to discharges of  
14 the type under consideration, so long as—

15 “(i) the current policies or procedures rep-  
16 resent a substantial enhancement of the rights  
17 afforded a respondent in such proceedings; and

18 “(ii) there is substantial doubt that the ap-  
19 plicant would have received the same discharge

1           if relevant current policies and procedures had  
2           been available to the applicant at the time of  
3           the discharge proceedings under consideration.

4           “(B) At the time of issuance, the discharge was  
5           inconsistent with standards of discipline in the  
6           armed force of which the applicant was a member.

7           “(C) In the course of a discharge review, it is  
8           determined that relief is warranted based upon con-  
9           sideration of the applicant’s service record and other  
10          evidence presented to the board, viewed in conjunc-  
11          tion with the applicant’s quality of service and capa-  
12          bility to serve and the regulations under which the  
13          applicant was discharged, even though the discharge  
14          was determined to have been otherwise equitable and  
15          proper at the time of issuance.

16          “(2) For purposes of paragraph (1)(C), quality of  
17          service is evidenced by factors such as the following:

18               “(A) Service history, including date of enlist-  
19               ment, period of enlistment, highest rank achieved,  
20               conduct or efficiency ratings (numerical or nar-  
21               rative).

22               “(B) Awards and decorations.

23               “(C) Letters of commendation or reprimand.

24               “(D) Combat service.

25               “(E) Wounds received in action.

1           “(F) Records of promotions and demotions.

2           “(G) Level of responsibility at which the appli-  
3           cant served.

4           “(H) Other acts of merit that may not have re-  
5           sulted in a formal recognition through an award or  
6           commendation.

7           “(I) Length of service during the service period  
8           which is the subject of the discharge review.

9           “(J) Prior military service and type of dis-  
10          charge received or outstanding postservice conduct  
11          to the extent that such matters provide a basis for  
12          a more thorough understanding of the performance  
13          of the applicant during the period of service which  
14          is the subject of the discharge review.

15          “(K) Convictions by court-martial.

16          “(L) Records of nonjudicial punishment.

17          “(M) Convictions by civil authorities while a  
18          member of the armed forces, reflected in the dis-  
19          charge proceedings or otherwise noted in military  
20          service records.

21          “(N) Records of periods of unauthorized ab-  
22          sence.

23          “(O) Records relating to a discharge instead of  
24          court-martial.

1           “(3) For purposes of paragraph (1)(C), capability to  
2 serve is evidenced by factors such as the following:

3           “(A) Total capabilities, including an evaluation  
4 of matters, such as age, educational level, and apti-  
5 tude scores. Consideration may also be given wheth-  
6 er the applicant met normal military standards of  
7 acceptability for military service and similar indica-  
8 tors of an individual’s ability to serve satisfactorily,  
9 as well as ability to adjust to military service.

10           “(B) Family and personal problems, including  
11 matters in extenuation or mitigation of the reason  
12 for discharge that may have affected the applicant’s  
13 ability to serve satisfactorily.

14           “(C) Arbitrary or capricious action, including  
15 actions by individuals in authority that constitute a  
16 clear abuse of such authority and that, although not  
17 amounting to prejudicial error, may have contrib-  
18 uted to the decision to discharge or to the character-  
19 ization of service.

20           “(D) Discrimination, including unauthorized  
21 acts as documented by records or other evidence.”.

