

Public Law 96-513
96th Congress

An Act

To amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the permanent grade of commodore admiral in the Navy, to equalize the treatment of female commissioned officers with that of male commissioned officers, and for other purposes.

Dec. 12, 1980
[S. 1918]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Officer
Personnel
Management
Act.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Defense Officer Personnel Management Act".

10 USC 101 note.

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

- Sec. 1. Short title; table of contents.
- Sec. 2. References to title 10, United States Code.

TITLE I—AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE—GENERAL MILITARY LAW

- Sec. 101. Definitions.
- Sec. 102. Exclusion of certain personnel from annual end-strengths; annual report on estimated officer personnel requirements for next five years.
- Sec. 103. Officer strength and distribution in grade.
- Sec. 104. Original appointments in regular commissioned officer grades.
- Sec. 105. Temporary appointments in officer grades and promotion, separation, and involuntary retirement of officers on the active-duty list.
- Sec. 106. Authority to order retired members of regular components to active duty; grade in which reserve officers ordered to active duty.
- Sec. 107. Rank of commissioned officers among themselves.
- Sec. 108. Right of retired officers to command.
- Sec. 109. Separation pay upon involuntary discharge or release from active duty.
- Sec. 110. Involuntary separation of regular officers for substandard performance of duty or for certain other reasons.
- Sec. 111. Retirement of regular commissioned officers at age 62.
- Sec. 112. Requirement of three years service in grade for voluntary retirement.
- Sec. 113. Computation of retired pay for regular officers retiring for age or years of service.
- Sec. 114. Officers attending Uniformed Services University of the Health Sciences to be counted against authorized military strengths.
- Sec. 115. Repeal of certain gender-based differences in treatment of dependents.
- Sec. 116. Extension of restrictions on performance of civil functions to all officers on active duty.
- Sec. 117. Permanent authority for certain provisions relating to disability retirement.

TITLE II—AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE—THE ARMY AND THE AIR FORCE

PART A—AMENDMENTS RELATING TO OFFICER APPOINTMENT, PROMOTION, SEPARATION, AND MANDATORY RETIREMENT

- Sec. 201. Repeal of sections providing for temporary appointments in grades of general and lieutenant general.
- Sec. 202. Repeal of sections relating to the authorized strength of the Army and of the Air Force.
- Sec. 203. Authorized strength in grade for general officers.
- Sec. 204. Repeal of sections relating to appointments of commissioned officers in the Regular Army and in the Regular Air Force.
- Sec. 205. Service credit upon original appointment of reserve commissioned officers.
- Sec. 206. Exclusion of reserve officers on the active-duty list from certain provisions relating to appointments of reserve officers.
- Sec. 207. Repeal of sections relating to temporary appointments of commissioned officers.
- Sec. 208. Repeal of sections relating to temporary appointments of warrant officers.
- Sec. 209. Grade in which reserve officers are ordered to active duty.
- Sec. 210. Retired regular members ordered to active duty.
- Sec. 211. Repeal of sections relating to rank and command.
- Sec. 212. Command by commissioned officers of the Army Medical Department and by commissioned officers of the Air Force in certain categories.
- Sec. 213. Repeal of chapters providing for involuntary separation of regular officers for unsatisfactory performance of duty and for certain other reasons.
- Sec. 214. Repeal of sections authorizing discharge of regular officers during three-year probationary period.
- Sec. 215. Retention in an active status of certain reserve officers until age 60.
- Sec. 216. Repeal of chapters relating to retirement for age of regular commissioned officers.
- Sec. 217. Repeal of sections relating to retirement for length of service.
- Sec. 218. Director of admissions of United States Military Academy; Registrar of the United States Air Force Academy.

PART B—MISCELLANEOUS AMENDMENTS

- Sec. 231. Authority to establish new staff corps in the Army.
- Sec. 232. Personnel detailed outside the Department of Defense to be counted in computing strengths.
- Sec. 233. Officers serving as Chief of Staff to the President.
- Sec. 234. Grade of the Special Assistant to Comptroller of the Department of Defense.
- Sec. 235. Rank, pay, and allowances of Assistant to the Chief of Engineers.
- Sec. 236. Repeal of sections authorizing termination of appointment or enlistment of regular female members.
- Sec. 237. Repeal of prohibition on women being enlisted as aviation cadets in the Regular Air Force.

TITLE III—AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE—THE NAVY AND MARINE CORPS

PART A—PERMANENT GRADE OF COMMODORE ADMIRAL IN THE NAVY

- Sec. 301. Establishment of permanent commodore admiral grade.
- Sec. 302. Number of Navy staff corps officers serving in grades of commodore admiral and rear admiral.

PART B—AMENDMENTS RELATING TO OFFICER STRENGTH AND DISTRIBUTION IN GRADE

- Sec. 311. Repeal of sections relating to the strength of the Navy and Marine Corps.
- Sec. 312. Personnel detailed outside the Department of Defense to be counted in computing strength.
- Sec. 313. Amendments relating to number and distribution in grade of flag and general officers.
- Sec. 314. Repeal of sections relating to lineal lists.

PART C—AMENDMENTS RELATING TO ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS IN THE NAVY AND MARINE CORPS

- Sec. 321. Repeal of certain sections of chapter 539 relating to original appointments in the Navy and Marine Corps superseded by new chapter 36.
- Sec. 322. Repeal of section providing for appointment of graduates of the United States Naval Academy.
- Sec. 323. Repeal of sections limiting number of ensigns appointed annually in certain staff corps.
- Sec. 324. Original appointments in the Regular Navy of officers designated for engineering, aeronautical, and special duty.
- Sec. 325. Original appointments of regular officers designated for limited duty.
- Sec. 326. Temporary appointments in warrant officer grades and of officers designated for limited duty.
- Sec. 327. Repeal of sections authorizing temporary appointments of Navy and Marine Corps officers.
- Sec. 328. Service credit upon original appointment of reserve commissioned officers.
- Sec. 329. Repeal of section authorizing direct procurement of ensigns and second lieutenants.

PART D—AMENDMENTS RELATING TO PROMOTIONS, SEPARATION, AND INVOLUNTARY RETIREMENT OF COMMISSIONED OFFICERS

- Sec. 331. Repeal of chapter providing for appointments to fleet commands and other positions of importance and responsibility.
- Sec. 332. Abolishment for regular officers of Navy running mate system and assignment of running mates to reserve officers.
- Sec. 333. Repeal of chapters relating to selection boards, promotion of officers, and examinations for promotions.
- Sec. 334. Temporary appointment of certain Navy lieutenants.
- Sec. 335. Repeal of sections relating to involuntary retirement, separation, and furlough.
- Sec. 336. Retirement or discharge of regular limited duty officers.
- Sec. 337. Elimination of reserve officers from active status.
- Sec. 338. Elimination from active status in the Naval Reserve of officers in the Nurse Corps.

PART E—AMENDMENTS RELATING TO SPECIFIC POSITIONS

- Sec. 341. Rank and privileges of retirement of the Director of the Office of Budget and Reports.
- Sec. 342. Grade of the Chief of Dental Division, Bureau of Medicine and Surgery.
- Sec. 343. Rank and grade of Judge Advocate General of the Navy.
- Sec. 344. Abolishment of positions of Assistant to the Chief of Naval Personnel for Women and Director of Women Marines.

PART F—ABOLISHMENT OF CERTAIN NAVY STAFF CORPS; AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE NAVY

- Sec. 351. Authority to establish new staff corps in the Navy.
- Sec. 352. Abolishment of Medical Service Corps and Nurse Corps.
- Sec. 353. Composition of Medical Department of the Navy.

PART G—AMENDMENTS RELATING TO RETIRED OFFICERS

- Sec. 361. Right of retired officers to command.
- Sec. 362. Recall and retired pay of retired officers of the Regular Navy and Regular Marine Corps.
- Sec. 363. Grade of retired members when ordered to active duty.

PART H—MISCELLANEOUS AMENDMENTS

- Sec. 371. Definitions.
- Sec. 372. Repeal of limitation on assignment of Regular Navy officers to shore duty.
- Sec. 373. Repeal of certain provisions providing different treatment of women members of the Navy and Marine Corps.
- Sec. 374. Repeal of authorization for appointment of Reserve naval aviators as regular officers.

TITLE IV—AMENDMENTS TO TITLE 37, UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

PART A—PAY FOR OFFICERS OF THE ARMED FORCES

- Sec. 401. Repeal of assignment of certain officers in the Navy and Marine Corps to the pay grade for rear admirals.
 Sec. 402. Computation of creditable service.
 Sec. 403. Effective date for pay and allowances of commissioned officers receiving promotions.

PART B—MISCELLANEOUS AMENDMENTS RELATING TO PAY AND ALLOWANCES

- Sec. 411. Subsistence allowance for enlisted members while performing certain travel.
 Sec. 412. Elimination of differences of treatment in provision of initial uniform allowance to officers.
 Sec. 413. Reimbursement of expenses in connection with certain mess operations.
 Sec. 414. Repeal of provisions of title 37, United States Code, superseded by section 805 of the Mental Health Systems Act.
 Sec. 415. Special pay for reserve medical officers.

TITLE V—TECHNICAL AND CLERICAL AMENDMENTS

PART A—AMENDMENTS REQUIRED BY THIS ACT

- Sec. 501. Amendments to subtitle A of title 10, United States Code.
 Sec. 502. Amendments to subtitle B of title 10, United States Code.
 Sec. 503. Amendments to subtitle C of title 10, United States Code.
 Sec. 504. Amendments to subtitle D of title 10, United States Code.
 Sec. 505. Amendments to title 14, United States Code.
 Sec. 506. Amendments to title 37, United States Code.
 Sec. 507. Amendments to other laws.

PART B—AMENDMENTS TO MAKE TECHNICAL CORRECTIONS IN TITLES 10, 32, AND 37 OF THE UNITED STATES CODE OTHER THAN CORRECTIONS REQUIRED BY THIS ACT

- Sec. 511. Amendments to subtitle A of title 10, United States Code.
 Sec. 512. Amendments to subtitle B of title 10, United States Code.
 Sec. 513. Amendments to subtitle C of title 10, United States Code.
 Sec. 514. Amendments to subtitle D of title 10, United States Code.
 Sec. 515. Amendments to title 32, United States Code.
 Sec. 516. Amendments to title 37, United States Code.

TITLE VI—TRANSITION PROVISIONS

PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE

- Sec. 601. Regular officers serving in a higher temporary grade below lieutenant general or recommended for promotion to a higher grade.
 Sec. 602. Reserve officers serving in a higher temporary grade below lieutenant general or recommended for promotion to a higher grade.
 Sec. 603. Regular officers once failed of selection for promotion.
 Sec. 604. Regular officers twice failed of selection for promotion.
 Sec. 605. Reserve officers once failed of selection for promotion.
 Sec. 606. Reserve officers twice failed of selection for promotion.
 Sec. 607. Entitlement to severance pay or separation pay of officers separated or discharged pursuant to this part.
 Sec. 608. Special tenure provisions for officers serving in temporary grades of brigadier general and major general.
 Sec. 609. Right of majors and colonels to complete years of service allowed under prior law.
 Sec. 610. Regular officers whose retirement has been deferred.

PART B—TRANSITION PROVISIONS RELATING ONLY TO THE NAVY AND MARINE CORPS

- Sec. 611. Officers serving in a temporary grade below vice admiral or lieutenant general or recommended for promotion.
 Sec. 612. Officers failed of selection for promotion.
 Sec. 613. Right of certain officers to retire under prior law.

- Sec. 614. Transition provisions to new commodore admiral grade.
- Sec. 615. Female officers.
- Sec. 616. Limited-duty officers.
- Sec. 617. Certain Navy lieutenants holding temporary appointments in the grade of lieutenant commander.
- Sec. 618. Director of Budget and Reports of the Navy.

PART C—GENERAL TRANSITION PROVISIONS

- Sec. 621. Establishment of initial active-duty lists.
- Sec. 622. Officers serving in the same temporary grade and permanent grade; date of rank.
- Sec. 623. Officers serving in grades above major general or rear admiral.
- Sec. 624. Years of service for involuntary retirement or discharge.
- Sec. 625. Savings provision for constructive service previously granted.
- Sec. 626. Miscellaneous provisions relating to years of service.
- Sec. 627. Transition to officer grade-strength tables during fiscal year 1981.
- Sec. 628. Right of commissioned officers with permanent enlisted or warrant officer status to retire in highest enlisted or warrant officer grade held.
- Sec. 629. Savings provision for retired grade for officers not subsequently promoted.
- Sec. 630. Exemption of certain officers from selective early retirement provisions.
- Sec. 631. Savings provision for entitlement to readjustment pay or severance pay under prior provisions of law.
- Sec. 632. Officers on active duty in grade above general.
- Sec. 633. Definitions.

PART D—ADJUSTMENTS TO TRANSITION PROVISIONS FOR HEALTH PROFESSIONALS
SPECIAL PAY

- Sec. 641. Preservation of entitlement for reserve medical officers.
- Sec. 642. Preservation of level of pay for senior dental officers.

TITLE VII—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

- Sec. 701. Effective dates.
- Sec. 702. Preservation of suspended status of law in suspended status on effective date.
- Sec. 703. General savings provision.

REFERENCES TO TITLE 10, UNITED STATES CODE

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

TITLE I—AMENDMENTS TO SUBTITLE A OF TITLE 10,
UNITED STATES CODE—GENERAL MILITARY LAW

DEFINITIONS

SEC. 101. Section 101, relating to definitions, is amended by adding at the end thereof the following new paragraphs: 10 USC 101.

“(37) ‘Active-duty list’ means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers described in section 641 of this title, who are serving on active duty.

“(38) ‘Medical officer’ means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer.

“(39) ‘Dental officer’ means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

Post, p. 2855.
Post, p. 2866.

“(40) ‘General officer’ means an officer of the Army, Air Force, or Marine Corps serving in or having the grade of general, lieutenant general, major general, or brigadier general.

“(41) ‘Flag officer’ means an officer of the Navy serving in or having the grade of admiral, vice admiral, rear admiral, or commodore admiral.”.

EXCLUSION OF CERTAIN PERSONNEL FROM ANNUAL END-STRENGTHS;
ANNUAL REPORT ON ESTIMATED OFFICER PERSONNEL REQUIREMENTS
FOR NEXT FIVE YEARS

10 USC 138.

SEC. 102. (a) Paragraph (1) of section 138(c), relating to the authorization of active-duty and civilian personnel, is amended—

(1) by inserting “(A)” after “(1)”; and

(2) by adding at the end thereof the following new subparagraphs:

“(B) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subparagraph (A), persons in the following categories shall be excluded:

“(i) Members of the Ready Reserve ordered to active duty under section 673 of this title.

“(ii) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 673b of this title.

“(iii) Members of the National Guard called into Federal service under section 3500 or 8500 of this title.

“(iv) Members of the militia called into Federal service under chapter 15 of this title.

“(v) Members of reserve components on active duty for training for 180 days or less.

“(vi) Members of reserve components on active duty for 180 days or less to perform special work.

“(C) The authorized strength of the Navy is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.”.

(b) Subparagraph (D) of paragraph (3) of such section is amended to read as follows:

“(D) The Secretary of Defense shall also include in such report with respect to each armed force under the jurisdiction of the Secretary of a military department—

“(i) the number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years;

“(ii) the estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years;

“(iii) an estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

“(I) retirements displayed by year of active commissioned service and active military service;

“(II) discharges;

“(III) other separations;

“(IV) deaths;

“(V) promotions; and

“(VI) reserve and regular officers ordered to active duty; and

“(iv) an analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

“(I) Regular officers.

“(II) Reserve officers on the active-duty list.

“(III) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

Post, p. 2842.

“(IV) Officers other than those specified in subclauses (I), (II), and (III) serving in a temporary grade.”.

OFFICER STRENGTH AND DISTRIBUTION IN GRADE

SEC. 103. Part II of subtitle A is amended by inserting after chapter 31 the following new chapter:

“CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

“Sec.

“521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories.

“522. Authorized total strengths: regular commissioned officers on active duty.

“523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.

“524. Authorized strengths: reserve officers on active duty for administration of the reserves in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.

“525. Distribution of commissioned officers on active duty in general officer and flag officer grades.

“526. Authority to suspend sections 523, 524, and 525.

“§ 521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories 10 USC 521.

“(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the total authorized active-duty strength as of the end of the fiscal year for officers in grades above warrant officer (W-4) for each of the armed forces under the jurisdiction of the Secretary of a military department.

“(b) Under regulations prescribed by the Secretary of Defense, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.

“§ 522. Authorized total strengths: regular commissioned officers on active duty

“The authorized strengths of the Army, Navy, Air Force, and Marine Corps in regular officers (other than retired officers) in grades above chief warrant officer (W-4) are as follows:

| | |
|---------------------|--------|
| “Army | 63,000 |
| “Navy | 48,000 |
| “Air Force | 69,425 |
| “Marine Corps | 13,000 |

10 USC 523.

“§ 523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

“(a)(1) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Army, Air Force, or Marine Corps at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

| “Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in the grade of: | | |
|---|---|--------------------|---------|
| | Major | Lieutenant colonel | Colonel |
| Army: | | | |
| 60,000 | 11,580 | 7,941 | 3,080 |
| 65,000 | 12,271 | 8,330 | 3,264 |
| 70,000 | 12,963 | 8,718 | 3,447 |
| 75,000 | 13,654 | 9,107 | 3,631 |
| 80,000 | 14,346 | 9,495 | 3,814 |
| 85,000 | 15,037 | 9,884 | 3,997 |
| 90,000 | 15,729 | 10,272 | 4,181 |
| 95,000 | 16,420 | 10,661 | 4,364 |
| 100,000 | 17,112 | 11,049 | 4,548 |
| 110,000 | 18,495 | 11,826 | 4,915 |
| 120,000 | 19,878 | 12,603 | 5,281 |
| 130,000 | 21,261 | 13,380 | 5,648 |
| 170,000 | 26,793 | 16,488 | 7,116 |
| Air Force: | | | |
| 70,000 | 13,530 | 9,428 | 3,642 |
| 75,000 | 14,266 | 9,801 | 3,823 |
| 80,000 | 15,002 | 10,175 | 4,004 |
| 85,000 | 15,738 | 10,549 | 4,185 |
| 90,000 | 16,474 | 10,923 | 4,365 |
| 95,000 | 17,210 | 11,297 | 4,546 |
| 100,000 | 17,946 | 11,671 | 4,727 |
| 105,000 | 18,682 | 12,045 | 4,908 |
| 110,000 | 19,418 | 12,418 | 5,088 |
| 115,000 | 20,154 | 12,792 | 5,269 |
| 120,000 | 20,890 | 13,165 | 5,450 |
| 125,000 | 21,626 | 13,539 | 5,631 |
| Marine Corps: | | | |
| 12,500 | 2,499 | 1,388 | 592 |
| 15,000 | 2,717 | 1,483 | 613 |
| 17,500 | 2,936 | 1,579 | 633 |
| 20,000 | 3,154 | 1,674 | 654 |
| 22,500 | 3,373 | 1,770 | 675 |
| 25,000 | 3,591 | 1,865 | 695 |

“(2) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Navy at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of lieutenant commander, commander, and captain may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

| "Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty: | Number of officers who may be serving on active duty in grade of: | | |
|---|---|-----------|---------|
| | Lieutenant commander | Commander | Captain |
| Navy: | | | |
| 45,000..... | 9,124 | 5,776 | 2,501 |
| 48,000..... | 9,565 | 5,984 | 2,602 |
| 51,000..... | 10,006 | 6,190 | 2,702 |
| 54,000..... | 10,447 | 6,398 | 2,803 |
| 57,000..... | 10,888 | 6,606 | 2,904 |
| 60,000..... | 11,329 | 6,813 | 3,005 |
| 63,000..... | 11,770 | 7,020 | 3,106 |
| 66,000..... | 12,211 | 7,227 | 3,206 |
| 70,000..... | 12,799 | 7,504 | 3,341 |
| 90,000..... | 15,739 | 8,886 | 4,013 |

"(3) If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is between any two consecutive figures listed in the first column of the appropriate table in paragraph (1) or (2), the corresponding authorized strengths for each of the grades shown in that table for that armed force are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of commissioned officers serving on active duty in an armed force (excluding officers in categories specified in subsection (b)) is greater or less than the figures listed in the first column of the appropriate table in paragraph (1) or (2), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table in the same proportion as reflected in the nearest limit shown in the table.

"(b) Officers in the following categories shall be excluded in computing and determining authorized strengths under this section:

Exclusions.

"(1) Reserve officers—

"(A) on active duty for training;

"(B) on active duty under section 265, 3033, 3496, 5251, 5252, 8033, or 8496 of this title or under section 708 of title 32;

"(C) on active duty under section 672(d) of this title or section 502 or 503 of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components;

"(D) on active duty to pursue special work; or

"(E) ordered to active duty under section 673b of this title.

10 USC 673b.

"(2) General and flag officers.

"(3) Medical officers.

"(4) Dental officers.

"(5) Warrant officers.

"(6) Retired officers on active duty under a call or order to active duty for 180 days or less.

"(7) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

“(c) Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

“(d) An officer may not be reduced in grade, or have his pay or allowances reduced, because of a reduction in the number of commissioned officers authorized for his grade under this section.

10 USC 524.

“§ 524. Authorized strengths: reserve officers on active duty for administration of the reserves in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

“(a) The number of reserve officers of the Army, Air Force, and Marine Corps who may be on active duty in each of the grades of major, lieutenant colonel, and colonel, and of the Navy who may be on active duty in each of the grades of lieutenant commander, commander, and captain, as of the end of any fiscal year for duty described in subclauses (B) and (C) of section 523(b)(1) of this title may not exceed the number for that grade and armed force in the following table:

| “Grade | Army | Navy | Air Force | Marine Corps |
|---------------------------------------|------|------|-----------|--------------|
| Major or lieutenant commander | 821 | 823 | 170 | 51 |
| Lieutenant colonel or commander | 503 | 425 | 183 | 35 |
| Colonel or Navy captain | 163 | 177 | 146 | 19 |

“(b) Whenever the number of officers serving in any grade is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

“§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades

“(a) No appointment may be made in a grade above brigadier general in the Army, Air Force, or Marine Corps if that appointment would result in more than 50 percent of the general officers of that armed force on active duty being in grades above brigadier general. No appointment may be made in a grade above commodore admiral in the Navy if that appointment would result in more than 50 percent of the flag officers of the Navy on active duty being in grades above commodore admiral.

“(b)(1) No appointment may be made in a grade above major general in the Army, Air Force, or Marine Corps if that appointment would result in more than 15 percent of the general officers of that armed force on active duty being in grades above major general. In the case of the Army and Air Force, of the 15 percent of general officers on active duty who may be serving in grades above major general, not more than 25 percent may be serving in the grade of general.

“(2) No appointment may be made in a grade above rear admiral in the Navy if that appointment would result in more than 15 percent of the flag officers of the Navy on active duty being in grades above rear admiral. Of the 15 percent of flag officers on active duty who may be

serving in grades above rear admiral, not more than 25 percent may be serving in the grade of admiral.

“(3) An officer while serving as Chairman of the Joint Chiefs of Staff or as Chief of Staff to the President, if serving in the grade of general or admiral, is in addition to the number authorized his armed force for that grade under paragraph (1) or (2).

Joint Chiefs of Staff, exception.

“§ 526. Authority to suspend sections 523, 524, and 525

“In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of section 523, 524, or 525 of this title. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.”

War or national emergency.
10 USC 526.

ORIGINAL APPOINTMENTS IN REGULAR COMMISSIONED OFFICER GRADES

SEC. 104. (a) Chapter 33 is amended by striking out the table of sections at the beginning thereof and inserting in lieu thereof the following:

| “Subchapter | Sec. |
|--|------|
| “I. Original Appointments of Regular Officers in Grades above Warrant Officer Grades | 531 |
| “II. Appointments of Regular Warrant Officers..... | 555 |

“SUBCHAPTER I—ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES

“Sec.

“531. Original appointments of commissioned officers.

“532. Qualifications for original appointment as a commissioned officer.

“533. Service credit upon original appointment as a commissioned officer.

“541. Graduates of the United States Military, Naval, and Air Force Academies.

“§ 531. Original appointments of commissioned officers

“Original appointments in the grades of second lieutenant through colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign through captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.

“§ 532. Qualifications for original appointment as commissioned officer

“(a) Under regulations prescribed by the Secretary of Defense, an original appointment as a commissioned officer (other than as a commissioned warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be given only to a person who—

“(1) is a citizen of the United States;

- “(2) is able to complete 20 years of active commissioned service before his fifty-fifth birthday;
- “(3) is of good moral character;
- “(4) is physically qualified for active service; and
- “(5) has such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.
- Medical or dental officers. “(b)(1) Original appointments in the Regular Army in the Medical Corps or Dental Corps, and original appointments in the Regular Air Force with a view to designation of an officer as a medical or dental officer, may be made in the grades of first lieutenant through colonel. Original appointments in the Regular Navy in the Medical Corps or Dental Corps may be made in the grades of lieutenant (junior grade) through captain. Such appointments may be made only from persons who are qualified doctors of medicine, osteopathy, or dentistry.
- Doctors of osteopathy. “(2) To be eligible for an original appointment as a medical officer, a doctor of osteopathy must—
- “(A) be a graduate of a college of osteopathy whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;
- “(B) be licensed to practice medicine, surgery, or osteopathy in a State or in the District of Columbia;
- “(C) under regulations prescribed by the Secretary of Defense, have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who become doctors of medicine and who would be qualified for an original appointment in the grade for which that person is being considered for appointment; and
- “(D) have such other qualifications as the Secretary of the military department concerned prescribes after considering the recommendations, if any, of the Surgeon General of the armed force concerned.
- Limited duty. “(c) Original appointments in the Regular Navy or Regular Marine Corps of officers designated for limited duty shall be made under section 5589 or 5596 of this title.
- Post, pp. 2893, 2894. “(d) A person receiving an original appointment as a medical officer or dental officer or as a chaplain is not subject to clause (2) of subsection (a).
- 10 USC 533. “§ 533. Service credit upon original appointment as a commissioned officer
- “(a)(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade (other than a warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, such person shall be credited at the time of such appointment with any active commissioned service (other than service as a commissioned warrant officer) that he performed in any armed force before such appointment.
- Regulations. “(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

“(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall credit a person who is receiving an original appointment in a commissioned grade (other than a commissioned warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

“(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary concerned shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

“(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the armed force concerned.

“(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed forces.

“(D) Additional credit, in unusual cases, based on special experience in a particular field.

“(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

“(F) Additional credit for experience as a physician or dentist, if appointed as a medical or dental officer in the Army or Navy or, in the case of the Air Force, with a view to designation as a medical or dental officer.

“(2) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major in the Army, Air Force, or Marine Corps or lieutenant commander in the Navy.

Limitation.

“(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

“(c) Constructive service credited an officer under subsection (b) shall be used only for determining the officer’s—

“(1) initial grade as a regular officer;

“(2) rank in grade; and

“(3) service in grade for promotion eligibility.

“(d)(1) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status.

“(2) A graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Academy.

Judge advocates.

“(e) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army, Navy, Air Force, or Marine Corps in grades below major or lieutenant commander is critically below the number needed by such armed force in such grades, he may authorize the Secretary of the military department concerned to credit any person receiving an original appointment in the Judge Advocate General’s Corps of the Army or Navy, or any person receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain or, in the case of an officer of the Navy, lieutenant and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.

“(f) An officer of a reserve component who receives an original appointment as an officer (other than a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be appointed in the grade and with the date of rank to which he would have been entitled had he been serving on active duty as an officer of a reserve component on the date of such original appointment as a regular officer.”

(b) Such chapter is further amended by inserting after section 541 the following:

“SUBCHAPTER II—APPOINTMENTS OF REGULAR WARRANT OFFICERS

“Sec.

“555. Warrant officers: grades.

“556. Warrant officers: original appointment; service credit.

“557. Warrant officers: promotion; qualifications.

“558. Warrant officers: promotion; selection boards.

“559. Warrant officers: eligibility for promotion.

“560. Warrant officers: promotion; selection procedure.

“561. Warrant officers: effect of failure of selection for promotion.

“562. Warrant officers: disapproval of promotion by Secretary concerned, President, or Senate.

“563. Warrant officers: promotion; effective date.

“564. Warrant officers: effect of second failure of promotion.

“565. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.”

TEMPORARY APPOINTMENTS IN OFFICER GRADES AND PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

SEC. 105. Part II of subtitle A is amended by redesignating chapter 35 as chapter 34 and by inserting after such chapter the following new chapters: 10 USC prec. 591.

“CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

“Sec.

“601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals.

“602. Warrant officers: temporary promotions.

“603. Commissioned officer grades: time of war or national emergency.

“§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals 10 USC 601.

“(a) The President may designate positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral. The President may assign to any such position an officer of the Army, Navy, Air Force, or Marine Corps who is serving on active duty in any grade above colonel or, in the case of an officer of the Navy, any grade above captain. An officer assigned to any such position has the grade specified for that position if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Except as provided in subsection (b), the appointment of an officer to a grade under this section for service in a position of importance and responsibility ends on the date of the termination of the assignment of the officer to that position.

“(b) If the assignment of an officer who is serving in a position designated to carry the grade of general, admiral, lieutenant general, or vice admiral is terminated—

“(1) by the assignment of such officer to another position designated to carry one of those grades, such officer shall hold, during the period beginning on the day of that termination and ending on the day before the day on which he assumes the other position, the grade that he held on the day before the termination;

“(2) by the hospitalization of such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day he is discharged from the hospital, but not for more than 180 days, the grade that he held on the day before the termination; or Hospitalization.

“(3) by the retirement of such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day before his retirement, but not for more than 90 days, the grade that he held on the day before the termination. Retirement.

“(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

“(2) An officer serving in a grade above major general or rear admiral who holds the permanent grade of brigadier general or commodore admiral shall be considered for promotion to the permanent grade of major general or rear admiral, as appropriate, as if he were serving in his permanent grade. Promotion.

“§ 602. Warrant officers: temporary promotions

“A warrant officer serving on active duty in the Army, Navy, Air Force, or Marine Corps may be given a temporary appointment to a

higher warrant officer grade under such regulations as the Secretary of the military department concerned may prescribe.

Presidential appointment.
10 USC 603.

“§ 603. Commissioned officer grades: time of war or national emergency

“(a) In time of war, or of national emergency declared by the Congress or the President after November 30, 1980, the President may appoint any qualified person (whether or not already a member of the armed forces) to any commissioned officer grade in the Army, Navy, Air Force, or Marine Corps, except that appointments under this section may not be made in warrant officer grades or in grades above major general or rear admiral. Appointments under this section shall be made by the President alone.

Temporary appointment.
Service credit.

“(b) Any appointment under this section is a temporary appointment and may be vacated by the President at any time.

Ante, p. 2846.

“(c)(1) Any person receiving an original appointment under this section is entitled to service credit as authorized under section 533 of this title.

“(2) An appointment under this section of a person who is not on active duty becomes effective when that person begins active duty under that appointment.

“(d) An appointment under this section does not change the permanent status of a member of the armed forces so appointed. A member who is appointed under this section shall not incur any reduction in the pay and allowances to which the member was entitled, by virtue of his permanent status, at the time of his appointment under this section.

“(e)(1) An officer who receives an appointment to a higher grade under this section is considered to have accepted such appointment on the date of the order announcing the appointment unless he expressly declines the appointment.

Oath.

“(2) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.

Termination.

“(f) Unless sooner terminated, an appointment under this section terminates—

“(1) on the second anniversary of the appointment;

“(2) at the end of the six-month period beginning on the last day of the war or national emergency during which the appointment was made; or

“(3) on the date the person appointed is released from active duty;
whichever is earliest.

“CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

| | |
|---|------|
| “Subchapter | Sec. |
| “I. Selection Boards..... | 611 |
| “II. Promotions..... | 619 |
| “III. Failure of Selection for Promotion and Retirement for Years of Service .. | 627 |
| “IV. Continuation on Active Duty and Selective Early Retirement | 637 |
| “V. Additional Provisions Relating to Promotion, Separation, and Retirement | 641 |

"SUBCHAPTER I—SELECTION BOARDS

"Sec.

"611. Convening of selection boards.

"612. Composition of selection boards.

"613. Oath of members of selection boards.

"614. Notice of convening of selection boards; communications with boards.

"615. Information furnished to selection boards.

"616. Recommendations for promotion by selection boards.

"617. Reports of selection boards.

"618. Action on reports of selection boards.

"§ 611. Convening of selection boards

10 USC 611.

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require, shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through commodore admiral in the Navy.

Post, p. 2854.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require, may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

Post, p. 2863.*Post*, p. 2864.**"§ 612. Composition of selection boards**

"(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers who are on the active-duty list of the same armed force as the officers under consideration by the board. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander.

"(2) A selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force, except that in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or commodore admiral, no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade.

Reserve officers.

"(4) Except as provided in paragraph (3), if qualified officers on the active-duty list are not available in sufficient numbers to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board retired officers of the same armed force who hold a retired grade higher than the grade of the officers under consideration by the board. A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

Retired officers.

"(b) No officer may be a member of two successive selection boards for the consideration of officers of the same competitive category and grade.

"§ 613. Oath of members of selection boards

"Each member of a selection board shall swear that he will perform his duties as a member of the board without prejudice or partiality

and having in view both the special fitness of officers and the efficiency of his armed force.

10 USC 614.

“§ 614. Notice of convening of selection boards; communications with boards

“(a) At least 30 days before a selection board is convened under section 611(a) of this title to recommend officers in a grade for promotion to the next higher grade, the Secretary concerned (1) shall notify in writing the officers eligible for consideration for promotion of the date on which the board is to convene and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification, or (2) shall issue a general written notice to the armed force concerned regarding the convening of the board, the names of the officers eligible for consideration by the board as of the date of the notification, the convening date of the board, and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification.

“(b) An officer eligible for consideration by a selection board convened under section 611(a) of this title may send a written communication to the board, to arrive not later than the date the board convenes, calling attention to any matter concerning himself that the officer considers important to his case. The selection board shall give consideration to any timely communication under this subsection.

“§ 615. Information furnished to selection boards

“The Secretary of the military department concerned shall furnish each selection board convened under section 611(a) of this title with—

Post, p. 2856.

“(1) the maximum number, as determined in accordance with section 622 of this title, of officers in each competitive category under consideration that the board may recommend for promotion to the next higher grade;

“(2) the names of all officers in each competitive category to be considered by the board for promotion;

“(3) the pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board;

“(4) information relating to the needs of the armed force concerned for officers having particular skills; and

“(5) such other information and guidelines as may be necessary to enable the board to properly perform its functions.

“§ 616. Recommendations for promotion by selection boards

“(a) A selection board convened under section 611(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for officers with particular skills, considers best qualified for promotion within each competitive category considered by the board.

Number of officers.

“(b) The Secretary of the military department concerned shall establish the number of officers such a selection board may recommend for promotion from among officers being considered from below the promotion zone in any competitive category. Such number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of

the service so require. If the number determined under this subsection is less than one, the board may recommend one such officer. The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers which the board is authorized under section 615 of this title to recommend for promotion.

“(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

“(1) the officer receives the recommendation of a majority of the members of the board; and

“(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

“(d) Except as otherwise provided by law, an officer on the active-duty list may not be promoted to a higher grade under this chapter unless he is considered and recommended for promotion to that grade by a selection board convened under this chapter.

“§ 617. Reports of selection boards

10 USC 617.

“(a) Each selection board convened under section 611(a) of this title shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned among those officers whose names were furnished to the selection board.

Submittal to Secretary.

“(b) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under chapter 60 of this title to show cause for his retention on active duty.

Active-duty retention.

Post, p. 2872.

“§ 618. Action on reports of selection boards

“(a) If, after reviewing the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.

“(b)(1) After his final review of the report of a selection board, the Secretary concerned shall submit the report, with his recommendations thereon, to the Secretary of Defense for transmittal to the President for his approval, modification, or disapproval.

Submittal to Defense Secretary; transmittal to President.
Active-duty retention.
Post, p. 2872.

“(2) The Secretary concerned may submit to a board of officers convened under section 1181 of this title the name of any officer who is named in the report of a selection board as having a record which indicates that the officer should be required to show cause for his retention on active duty.

“(c) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

“(d) Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If such names have not been sooner disseminated, such names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

Proceedings,
disclosure.

“(e) Except as authorized or required by this section, proceedings of a selection board convened under section 611(a) of this title may not be disclosed to any person not a member of the board.

“SUBCHAPTER II—PROMOTIONS

“Sec.

“619. Eligibility for consideration for promotion.

“620. Active-duty lists.

“621. Competitive categories for promotion.

“622. Numbers to be recommended for promotion.

“623. Establishment of promotion zones.

“624. Promotions: how made.

“625. Authority to vacate promotions to grades of brigadier general and commodore admiral.

“626. Acceptance of promotions; oath of office.

In-grade service
period.
10 USC 619.

“§ 619. Eligibility for consideration for promotion

“(a)(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

“(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

“(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

“(2) Subject to paragraph (4), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

“(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

“(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or commodore admiral.

“(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

“(4) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in clause (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

Waiver.

“(5) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

“(b) An officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.

Continued eligibility.

“(c)(1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion.

“(2) The Secretary of the military department concerned—

“(A) may, by regulation, prescribe procedures to limit the officers to be considered by a selection board—

“(i) from below the promotion zone; or

“(ii) in the case of a selection board to recommend officers for promotion to the grade of brigadier general or commodore admiral,

to those officers who are determined to be exceptionally well qualified for promotion; and

“(B) may, by regulation, prescribe criteria for determining which officers below the promotion zone or in the grades of colonel and, in the case of officers of the Navy, captain are exceptionally well qualified for promotion.

“(d) A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade—

Exceptions.

“(1) an officer whose name is on a promotion list for that grade as a result of his selection for promotion to that grade by an earlier selection board convened under that section; or

“(2) an officer of the Navy or Marine Corps who is an officer designated for limited duty and who holds a grade above lieutenant commander or major.

“§ 620. Active-duty lists

10 USC 620.

“(a) The Secretary of the military department concerned shall maintain a single list of all officers (other than officers described in section 641 of this title) who are on active duty for each armed force under his jurisdiction (other than the Coast Guard when it is operating as a service in the Navy).

Post, p. 2866.

“(b) Officers shall be carried on the active-duty list of the armed force of which they are members in the order of seniority of the grade in which they are serving on active duty. Officers serving in the same grade shall be carried in the order of their rank in that grade.

“(c) An officer whose position on the active-duty list results from service under a temporary appointment or in a grade held by reason

of assignment to a position has, when that appointment or assignment ends, the grade and position on the active-duty list that he would have held if he had not received that appointment or assignment.

10 USC 621.

“§ 621. Competitive categories for promotion

“Under regulations prescribed by the Secretary of Defense, the Secretary of each military department shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

“§ 622. Numbers to be recommended for promotion

“Before convening a selection board under section 611(a) of this title for any grade and competitive category, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, and (3) the number of officers authorized by the Secretary of the military department concerned to serve on active duty in the grade and competitive category under consideration. Based on such determinations, the Secretary of the military department concerned shall determine the maximum number of officers in such competitive category which the selection board may recommend for promotion.

“§ 623. Establishment of promotion zones

“(a) Before convening a selection board under section 611(a) of this title to consider officers for promotion to any grade above first lieutenant or lieutenant (junior grade), the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

“(b) The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category. Such determination shall be made on the basis of an estimate of—

Estimate.

“(1) the number of officers needed in that competitive category in the next higher grade in each of the next five years;

“(2) the number of officers to be serving in that competitive category in the next higher grade in each of the next five years;

Ante, p. 2842.

“(3) in the case of a promotion zone for officers to be promoted to a grade to which section 523 of this title is applicable, the number of officers authorized for such grade under such section to be on active duty on the last day of each of the next five fiscal years; and

“(4) the number of officers that should be placed in that promotion zone in each of the next five years to provide to officers in those years relatively similar opportunity for promotion.

“§ 624. Promotions: how made

10 USC 624.

“(a)(1) When the report of a selection board convened under section 611(a) of this title is approved by the President, or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President, the Secretary of the military department concerned shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the active-duty list.

“(2) Except as provided in subsection (d), officers on a promotion list for a competitive category shall be promoted to the next higher grade when additional officers in that grade and competitive category are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

“(b)(1) A regular officer who is promoted under this section is appointed in the regular grade to which promoted and a reserve officer who is promoted under this section is appointed in the reserve grade to which promoted.

“(2) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

“(c) Appointments under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments in the grade of first lieutenant or lieutenant (junior grade) under this section shall be made by the President alone.

“(d)(1) The Secretary concerned may delay the appointment of an officer under this section if—

“(A) sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and such charges have not been disposed of;

“(B) an investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer;

“(C) a board of officers has been convened under chapter 60 of this title to review the record of the officer; or

“(D) a criminal proceeding in a Federal or State court is pending against the officer.

If no disciplinary action is taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not ordered removed from active duty by the Secretary concerned under chapter 60 of this title, or if the officer is acquitted of the charges brought against him, as the case may be, the officer shall be retained on the promotion list and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if no delay had intervened.

“(2) The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected for promotion. If the Secretary concerned later determines that the officer is qualified for promotion to such grade, the officer shall, upon such promotion, have the same date of rank, the same effective date

Post, p. 2869.
Presidential
appointment.

Appointment
delay.

Retention on list.

Post, p. 2872.

for pay and allowances in the higher grade to which appointed, and the same position on the active-duty list as he would have had if no delay had intervened.

Delay, written notice.

“(3) The appointment of an officer may not be delayed under this subsection unless the officer has been given written notice of the grounds for the delay. An officer whose promotion has been delayed under this subsection shall be afforded an opportunity to make a written statement to the Secretary concerned in response to the action taken by the Secretary. Any such statement shall be given careful consideration by the Secretary.

Time limitation.

“(4) An appointment of an officer may not be delayed under the subsection for more than six months after the date on which the officer would otherwise have been appointed unless the Secretary concerned specifies a further period of delay. An officer’s appointment may not be delayed more than 90 days after final action has been taken in any criminal case against such officer in a Federal or State court, more than 90 days after final action has been taken in any court-martial case against such officer, or more than 18 months after the date on which such officer would otherwise have been appointed, whichever is later.

10 USC 625.

“§ 625. Authority to vacate promotions to grades of brigadier general and commodore admiral

“(a) The President may vacate the promotion to the grade of brigadier general or commodore admiral of an officer who has served less than 18 months in that grade after promotion to that grade under this chapter.

“(b) An officer of the Army, Air Force, or Marine Corps whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if he is a reserve officer. An officer of the Navy whose promotion is vacated under this section holds the regular grade of captain, if he is a regular officer, or the reserve grade of captain, if he is a reserve officer.

“(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position he would have held had he not been promoted to the grade of brigadier general or commodore admiral.

“§ 626. Acceptance of promotions; oath of office

“(a) An officer who is appointed to a higher grade under section 624 of this title is considered to have accepted such appointment on the date on which the appointment is made unless he expressly declines the appointment.

“(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 624 of this title.

“SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

“Sec.

“627. Failure of selection for promotion.

“628. Special selection boards.

“629. Removal from a list of officers recommended for promotion.

“630. Discharge of regular commissioned officers with less than five years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).

- "631. Effect of failure of selection for promotion: regular first lieutenants and lieutenants (junior grade).
- "632. Effect of failure of selection for promotion: regular captains and majors of the Army, Air Force, and Marine Corps and regular lieutenants and lieutenant commanders of the Navy.
- "633. Retirement for years of service: regular lieutenant colonels and commanders.
- "634. Retirement for years of service: regular colonels and Navy captains.
- "635. Retirement for years of service: regular brigadier generals and commodore admirals.
- "636. Retirement for years of service: regular major generals and rear admirals.

"§ 627. Failure of selection for promotion

10 USC 627.

"An officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain who is in or above the promotion zone established for his grade and competitive category under section 623 of this title and is considered but not selected for promotion by a selection board convened under section 611(a) of this title shall be considered to have failed of selection for promotion.

"§ 628. Special selection boards

"(a)(1) In the case of an officer who is eligible for promotion who the Secretary of the military department concerned determines was not considered for selection for promotion by a selection board because of administrative error, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall convene a special selection board under this subsection (composed in accordance with section 612 of this title) to determine whether such officer should be recommended for promotion.

"(2) A special selection board convened under paragraph (1) shall consider the record of the officer as his record would have appeared to the board that should have considered him. That record shall be compared with a sampling of the records of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that should have considered him.

Officer's record.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain whose name was referred to it for consideration, the officer shall be considered to have failed of selection for promotion.

"(b)(1) In the case of an officer who is eligible for promotion who was considered for selection for promotion by a selection board but was not selected, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, may convene a special selection board under this subsection (composed in accordance with section 612 of this title) to determine whether such officer should be recommended for promotion if the Secretary concerned determines that—

"(A) the action of the board which considered the officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall consider the record of the officer as his record, if corrected, would have appeared to the board that considered him. That record shall be compared with the records of a sampling of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that considered him.

Officer's record.

“(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer whose name was referred to it for consideration, the officer incurs no additional failure of selection for promotion.

Report,
submittal to
Secretary.

“(c)(1) Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has carefully considered the record of each officer whose name was referred to it.

“(2) The provisions of sections 617(b) and 618 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a selection board convened under section 611(a) of this title.

“(d)(1) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer whose name was referred to it for consideration, such officer shall, as soon as practicable, be appointed to the next higher grade in accordance with subsections (b), (c), and (d) of section 624 of this title.

“(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active-duty list as he would have had if he had been recommended for promotion to that grade by the board which should have considered, or which did consider, him.

“(e) The provisions of section 613 of this title apply to members of special selection boards convened under this section.

10 USC 629.

“§ 629. Removal from a list of officers recommended for promotion

“(a) The President may remove the name of any officer from a list of officers recommended for promotion by a selection board convened under this chapter.

“(b) If, after consideration of a list of officers approved for promotion by the President, the Senate does not give its advice and consent to the appointment of an officer whose name is on the list, that officer's name shall be removed from the list.

Continued
eligibility.

“(c)(1) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board convened for his grade and competitive category and he is promoted, the Secretary of the military department concerned may, upon such promotion, grant him the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if his name had not been so removed.

“(2) If such an officer who is in a grade below the grade of colonel or, in the case of the Navy, captain is not recommended for promotion by the next selection board convened for his grade and competitive category, or if his name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, he shall be considered for all purposes to have twice failed of selection for promotion.

“§630. Discharge of regular commissioned officers with less than five years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade) 10 USC 630.

“The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

“(1) may discharge any regular officer on the active-duty list who—

“(A) has less than five years of active commissioned service; or

“(B) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the regular grade of first lieutenant or lieutenant (junior grade); and

“(2) shall, unless the officer has been promoted, discharge any officer described in clause (1)(B) at the end of the eighteen-month period beginning on the date on which the officer is first found not qualified for promotion.

“§631. Effect of failure of selection for promotion: regular first lieutenants and lieutenants (junior grade)

“(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies), each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of first lieutenant and has failed of selection for promotion to the regular grade of captain for the second time, and each officer of the Regular Navy who holds the regular grade of lieutenant (junior grade) and has failed of selection for promotion to the regular grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher regular grade shall—

Post, pp. 2894, 2898, 2932.

“(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

Discharge.

“(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

Retirement.

“(3) if on the date on which he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

Retirement, active duty status.

“(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

Involuntary retirement or discharge.

10 USC 632.

“§ 632. Effect of failure of selection for promotion: regular captains and majors of the Army, Air Force, and Marine Corps and regular lieutenants and lieutenant commanders of the Navy

Post, pp. 2894, 2898, 2932.

“(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies) and except as provided under section 637(a) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of captain or major, and each officer of the Regular Navy who holds the regular grade of lieutenant or lieutenant commander, who has failed of selection for promotion to the next higher regular grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher regular grade shall—

Discharge.

“(1) be discharged on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

Retirement.

“(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

Retirement, active duty status.

“(3) if on the date on which he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired under that section, unless he is sooner retired or discharged under another provision of law.

Involuntary retirement or discharge.

“(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

“§ 633. Retirement for years of service: regular lieutenant colonels and commanders

Post, pp. 2894, 2898, 2932.

“Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies) and except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of lieutenant colonel, and each officer of the Regular Navy who holds the regular grade of commander, who is not on a list of officers recommended for promotion to the regular grade of colonel or captain, respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes twenty-eight years of active commissioned service.

“§ 634. Retirement for years of service: regular colonels and Navy captains

“Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of colonel, and each officer of the Regular Navy who holds the regular grade of captain, who is not on a list of officers recommended for promotion to the regular grade of brigadier general or commodore admiral, respectively, shall, if not earlier

retired, be retired on the first day of the month after the month in which he completes thirty years of active commissioned service.

“§ 635. Retirement for years of service: regular brigadier generals and commodore admirals 10 USC 635.

“Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of brigadier general, and each officer of the Regular Navy who holds the regular grade of commodore admiral, who is not on a list of officers recommended for promotion to the regular grade of major general or rear admiral, respectively, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes thirty years of active commissioned service, whichever is later.

“§ 636. Retirement for years of service: regular major generals and rear admirals

“Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of major general, and each officer of the Regular Navy who holds the regular grade of rear admiral, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes thirty-five years of active commissioned service, whichever is later.

“SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT

“Sec.

“637. Selection of regular officers for continuation on active duty.

“638. Selective early retirement.

“639. Continuation on active duty to complete disciplinary action.

“640. Deferment of retirement or separation for medical reasons.

“§ 637. Selection of regular officers for continuation on active duty

“(a)(1) An officer subject to discharge or retirement in accordance with section 632 of this title may, subject to the needs of the service, be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

Discharge or retirement.

“(2) An officer who holds the regular grade of captain in the Army, Air Force, or Marine Corps, or the regular grade of lieutenant in the Navy, and who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes twenty years of active commissioned service unless he is promoted to the regular grade of major or lieutenant commander, respectively.

“(3) An officer who holds the regular grade of major or lieutenant commander who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes twenty-four years of active commissioned service unless he is promoted to the regular grade of lieutenant colonel or commander, respectively.

"(4) An officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in accordance with section 632 of this title.

"(5) Each officer who is continued on active duty under this subsection, is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

"(A) be discharged upon the expiration of his period of continued service; or

"(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding the provisions of clause (A), any officer who would otherwise be discharged under such clause and is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, shall, unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

"(6) The retirement or discharge of an officer pursuant to this subsection shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

"(b)(1) An officer subject to retirement under section 633, 634, 635, or 636 of this title may, subject to the needs of the service, have his retirement deferred and be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

"(2) An officer subject to retirement under section 635 or 636 of this title who is serving in a grade above major general or rear admiral may, subject to the needs of the service, have his retirement deferred and be continued on active duty by the President.

"(3) Any deferral of retirement and continuation on active duty under this subsection shall be for a period not to exceed five years, but such period may not (except as provided under section 1251(b) of this title) extend beyond the date of the officer's sixty-second birthday.

"(c) Continuation of an officer on active duty under this section pursuant to the action of a selection board convened under section 611(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(d) The Secretary of Defense shall prescribe regulations for the administration of this section.

"§ 638. Selective early retirement

"(a) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps—

"(1) who holds the regular grade of lieutenant colonel or commander and has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion;

"(2) who holds the regular grade of colonel or, in the case of an officer of the Navy, captain and has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion;

"(3) who holds the regular grade of brigadier general or commodore admiral and has served at least four years of active

Involuntary retirement or discharge.

Deferred retirement.

Post, p. 2875.
Secretary's approval.

Regulations.

10 USC 638.

duty in that grade and whose name is not on a list of officers recommended for promotion; or

“(4) who holds the regular grade of major general or rear admiral and has served at least four years of active duty in that grade,

may be considered for early retirement by a selection board convened under section 611(b) of this title. The Secretary of the military department concerned shall specify the number of officers described in clauses (1) and (2) which such a board may recommend for early retirement, but such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

“(b)(1) An officer in a grade below brigadier general or commodore admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall—

“(A) be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement; or

“(B) if the officer is not eligible for retirement under any provision of law, be retained on active duty until he is qualified for retirement under section 3911, 6323, or 8911 of this title, and then be retired under that section, unless he is sooner retired or discharged under some other provision of law.

Retirement,
active duty
status.
10 USC 3911,
6323, 8911.

“(2) An officer who holds the regular grade of brigadier general, major general, commodore admiral, or rear admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approved the report of the board which recommended the officer for early retirement.

“(c) So long as an officer in a grade below brigadier general or commodore admiral holds the same grade, he may not be considered for early retirement under this section more than once in any five-year period.

“(d) The retirement of an officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

Involuntary
retirement.

“(e) The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall require that when the Secretary of the military department concerned submits a list of officers to a selection board convened under section 611(b) of this title to consider officers for selection for early retirement under this section, such list shall include each officer on the active-duty list in the same grade and competitive category whose position on the active-duty list is between that of the most junior officer in that grade and competitive category whose name is submitted to the board and that of the most senior officer in that grade and competitive category whose name is submitted to the board.

Regulations.

10 USC 639.

“§ 639. Continuation on active duty to complete disciplinary action

“When any action has been commenced against an officer with a view to trying such officer by court-martial and such officer is to be separated or retired in accordance with this chapter, the Secretary of the military department concerned may delay the separation or retirement of the officer, without prejudice to such action, until the completion of the action.

“§ 640. Deferment of retirement or separation for medical reasons

“The Secretary of the military department concerned may defer the retirement or separation under this title of any officer if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which the officer would otherwise be required to retire or be separated under this title.

“SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

“Sec.

“641. Applicability of chapter.

“642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay.

“643. Chaplains: discharge or retirement upon loss of professional qualifications.

“644. Authority to suspend officer personnel laws.

“645. Definitions.

“§ 641. Applicability of chapter

“Officers in the following categories are not subject to this chapter (other than section 640):

“(1) Reserve officers—

“(A) on active duty for training;

“(B) on active duty under section 175, 265, 3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033, or 8496 of this title or section 708 of title 32;

“(C) on active duty under section 672(d) of this title or under section 502 or 503 of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components;

“(D) on active duty to pursue special work;

“(E) ordered to active duty under section 673b of this title; or

“(F) on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

“(2) The director of admissions, dean, and permanent professors at the United States Military Academy and the registrar, dean, and permanent professors at the United States Air Force Academy.

“(3) Warrant officers.

“(4) Retired officers on active duty.

“(5) Students at the Uniformed Services University of the Health Sciences.

“§ 642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay 10 USC 642.

“(a) An officer who is discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1174 of this title. *Post*, p. 2870.

“(b) An officer who is retired under this chapter is entitled to retired pay computed under chapter 71 of this title. 10 USC 1401 *et seq.*

“§ 643. Chaplains: discharge or retirement upon loss of professional qualifications

“Under regulations prescribed by the Secretary of Defense, a commissioned officer on the active-duty list of the Army, Navy, or Air Force who is appointed or designated as a chaplain may, if he fails to maintain the qualifications needed to perform his professional function, be discharged or, if eligible for retirement, may be retired.

“§ 644. Authority to suspend officer personnel laws

War or national emergency.

“In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this chapter or of any other law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, or Marine Corps. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

“§ 645. Definitions

“In this chapter:

“(1) ‘Promotion zone’ means a promotion eligibility category consisting of the officers on an active-duty list in the same grade and competitive category—

“(A) who—

“(i) in the case of officers in grades below colonel, for officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Navy, have neither (I) failed of selection for promotion to the next higher grade, nor (II) been removed from a list of officers recommended for promotion to that grade; or

“(ii) in the case of officers in the grade of colonel or brigadier general, for officers of the Army, Air Force, and Marine Corps, or captain or commodore admiral, for officers of the Navy, have neither (I) not been recommended for promotion to the next higher grade when considered in the promotion zone, nor (II) been removed from a list of officers recommended for promotion to that grade; and

“(B) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer

eligible for consideration for promotion to the next higher grade in the promotion zone.

“(2) ‘Officers above the promotion zone’ means a group of officers on an active-duty list in the same grade and competitive category who—

“(A) are eligible for consideration for promotion to the next higher grade;

“(B) are in the same grade as those officers in the promotion zone for that competitive category; and

“(C) are senior to the senior officer in the promotion zone for that competitive category.

“(3) ‘Officers below the promotion zone’ means a group of officers on the active-duty list in the same grade and competitive category who—

“(A) are eligible for consideration for promotion to the next higher grade;

“(B) are in the same grade as the officers in the promotion zone for that competitive category; and

“(C) are junior to the junior officer in the promotion zone for that competitive category.”.

AUTHORITY TO ORDER RETIRED MEMBERS OF REGULAR COMPONENTS TO ACTIVE DUTY; GRADE IN WHICH RESERVE OFFICERS ORDERED TO ACTIVE DUTY

SEC. 106. Chapter 39, relating to service on active duty, is amended by adding at the end thereof the following new sections:

Active duty.
10 USC 688.

“§ 688. Regular components: retired members

“(a) Under regulations prescribed by the Secretary of Defense, a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be ordered to active duty by the Secretary of the military department concerned at any time. The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

“(b) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps who, while on active duty, is promoted to a grade that is higher than his retired grade is entitled, upon his release from that tour of active duty, to placement on the retired list in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

“(c) Except in time of war, or of national emergency declared by the Congress or the President after November 30, 1980, not more than fifteen retired general officers of the Army, Air Force, or Marine Corps, and not more than fifteen retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of sixty days or less is not counted.

“§ 689. Reserve officers: grade in which ordered to active duty

“A reserve officer who is ordered to active duty shall be ordered to active duty in his reserve grade.”.

RANK OF COMMISSIONED OFFICERS AMONG THEMSELVES

SEC. 107. Section 741 is amended to read as follows:

“§ 741. Rank: commissioned officers of the Army, Navy, Air Force, and Marine Corps 10 USC 741.

“(a) Among the grades listed below, the grades of general and admiral are equivalent and are senior to other grades and the grades of second lieutenant and ensign are equivalent and are junior to other grades. Intermediate grades rank in the order listed as follows:

| | |
|-------------------------------------|----------------------------|
| “Army, Air Force, and Marine Corps: | Navy |
| General..... | Admiral. |
| Lieutenant general..... | Vice admiral. |
| Major general..... | Rear admiral. |
| Brigadier general..... | Commodore admiral. |
| Colonel..... | Captain. |
| Lieutenant colonel..... | Commander. |
| Major..... | Lieutenant commander. |
| Captain..... | Lieutenant. |
| First lieutenant..... | Lieutenant (junior grade). |
| Second lieutenant..... | Ensign. |

“(b) Rank among officers of the same grade or of equivalent grades is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer.

“(c) Rank among officers of the same grade or of equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the the Army, Navy, Air Force, and Marine Corps.

“(d)(1) The date of rank of an officer who holds a grade as the result of an original appointment shall be determined by the Secretary of the military department concerned at the time of such appointment. The date of rank of an officer who holds a grade as the result of an original appointment and who at the time of such appointment was awarded service credit for prior commissioned service or constructive credit for advanced education or training, or special experience shall be determined so as to reflect such prior commissioned service or constructive service. Determinations by the Secretary concerned under this paragraph shall be made under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

“(2) Except as otherwise provided by law, the date of rank of an officer who holds a grade as the result of a promotion is the date of his appointment to that grade.

“(3) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the date of rank of a reserve commissioned officer (other than a warrant officer) who is to be placed on the active-duty list and who has not been on continuous active duty since his original appointment as a reserve commissioned officer in a grade above warrant officer (W-4) may, effective on the date on which he is placed on the active-duty list, be changed by the Secretary concerned to a later date to reflect such officer's qualifications and experience.”.

RIGHT OF RETIRED OFFICERS TO COMMAND

SEC. 108. Chapter 43, relating to rank and command, is amended by adding at the end thereof the following new section:

10 USC 750.

“§ 750. Command: retired officers

“A retired officer has no right to command except when on active duty.”.

SEPARATION PAY UPON INVOLUNTARY DISCHARGE OR RELEASE FROM ACTIVE DUTY

Repeal.

SEC. 109. (a) Section 687, relating to readjustment pay for nonregulars, is repealed.

Infra.

(b)(1) The second sentence of section 1165, relating to separation of regular warrant officers during their probationary period, is amended to read as follows: “A warrant officer who is separated under this section is entitled, if eligible therefor, to separation pay under section 1174 or he may be enlisted under section 515 of this title. If such a warrant officer is enlisted under section 515 of this title, he is not entitled to separation pay.”.

Infra.

(2) Section 1166(a), relating to elimination of regular warrant officers for unfitness or unsatisfactory performance, is amended—

Infra.
Post, p. 2918.

(A) by striking out “be separated with severance pay computed under section 1167(b) of this title” in the second sentence and inserting in lieu thereof a comma and the following: “if eligible therefor, be separated with separation pay under section 1174 of this title or severance pay under section 286a of title 14, as appropriate”; and

(B) by inserting “separation pay or” in the third sentence after “being paid”.

Repeal.

(3) Section 1167, relating to severance pay of regular warrant officers, is repealed.

(c) Chapter 59 is amended by adding at the end thereof the following new section:

“§ 1174. Separation pay upon involuntary discharge or release from active duty*Ante*, pp. 2850,
2861, 2867.
Post, pp. 2898,
2932.
Post, p. 2941.

“(a) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter), under section 564 or 6383 of this title, or under section 603 or 604 of the Defense Officer Personnel Management Act and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1).

Ante, pp. 2861,
2867, *post*, p.
2874.

“(b) A regular commissioned officer of the Army, Navy, Air Force, or Marine Corps who is discharged under section 630(1)(A), 643, or 1186 of this title, and a regular warrant officer of the Army, Navy, Air Force, or Marine Corps who is separated under section 1165 or 1166 of this title, who has completed five or more, but less than twenty, years of active service immediately before that discharge or separation is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary of the military department concerned, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant payment of such pay.

“(c) A member of an armed force other than a regular member who on or after the effective date of the Defense Officer Personnel

Management Act is discharged or released from active duty and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled, unless the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay, to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary concerned, if—

Ante, p. 2835.

“(1) such member’s discharge or release from active duty is involuntary; or

“(2) such member was not accepted for an additional tour of active duty for which he volunteered.

“(d) The amount of separation pay which may be paid to a member under this section is—

Pay computation.

“(1) 10 percent of the product of (A) his years of active service, and (B) 12 times the monthly basic pay to which he was entitled at the time of his discharge or release from active duty or \$30,000, whichever is less; or

“(2) one-half of the amount computed under clause (1), but in no event more than \$15,000.

“(e) A member who—

Ineligibility.

“(1) is discharged or released from active duty at his request;

“(2) is released from active duty for training; or

“(3) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service; is not eligible for separation pay under this section.

“(f) In determining a member’s years of active service for the purpose of computing separation pay under this section, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

“(g)(1) A period for which a member has previously received separation pay under this section or severance pay or readjustment pay under any other provision of law based on service in the armed forces may not be included in determining the years of service that may be counted in computing the separation pay of the member under this section.

“(2) The total amount that a member may receive in separation pay under this section and severance pay and readjustment pay under any other provision of law based on service in the armed forces may not exceed \$30,000.

Total pay, limitation.

“(h)(1) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay so much of such pay as is based on the service for which he received separation pay under this section or severance pay or readjustment pay under any other provision of law until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

Retired or retainer pay, deductions.

14 USC 1.

“(2) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on service in the armed forces shall not be deprived, by reason of his receipt of such separation pay, severance pay, or readjustment pay, of any disability compensation to which he is entitled under the laws administered by the Veterans’ Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay, severance pay, and readjustment pay received. Notwithstanding the preceding

Disability pay, deductions.

sentence, no deduction may be made from disability compensation for the amount of any separation pay, severance pay, or readjustment pay received because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

Regulations.

“(i) The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.”.

INVOLUNTARY SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD
PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

SEC. 110. Part II of subtitle A is amended by inserting after chapter 59 the following new chapter:

**“CHAPTER 60—SEPARATION OF REGULAR OFFICERS FOR
SUBSTANDARD PERFORMANCE OF DUTY OR FOR CER-
TAIN OTHER REASONS**

“Sec.

“1181. Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons.

“1182. Boards of inquiry.

“1183. Boards of review.

“1184. Removal of officer: action by Secretary upon recommendation of board of review.

“1185. Rights and procedures.

“1186. Officer considered for removal: voluntary retirement or discharge.

“1187. Officers eligible to serve on boards.

10 USC 1181.

**“§ 1181. Authority to convene boards of officers to consider separa-
tion of officers for substandard performance of duty or
for certain other reasons**

“(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

“(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.

“§ 1182. Boards of inquiry

“(a) The Secretary of the military department concerned shall convene boards of inquiry at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 1181 of this title to show cause for retention on active duty should be retained on active duty. Each board of inquiry shall be composed of not less

than three officers having the qualifications prescribed by section 1187 of this title.

“(b) A board of inquiry shall give a fair and impartial hearing to each officer required under section 1181 of this title to show cause for retention on active duty.

“(c) If a board of inquiry determines that the officer has failed to establish that he should be retained on active duty, it shall send the record of its proceedings to a board of review convened under section 1183 of this title.

Review board.

“(d)(1) If a board of inquiry determines that the officer has established that he should be retained on active duty, the officer’s case is closed.

“(2) An officer who is required to show cause for retention on active duty under subsection (a) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may not again be required to show cause for retention on active duty under such subsection within the one-year period beginning on the date of that determination.

“(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may again be required to show cause for retention at any time.

“(B) An officer who has been required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is thereafter retained on active duty may not again be required to show cause for retention on active duty under such subsection solely because of conduct which was the subject of the previous proceedings, unless the findings or recommendations of the board of inquiry that considered his case are determined to have been obtained by fraud or collusion.

“§ 1183. Boards of review

10 USC 1183.

“(a) The Secretary of the military department concerned shall convene boards of review at such times as the Secretary may prescribe to review the cases of officers who a board of inquiry has determined have failed to establish that they should be retained on active duty. Each board of review shall be composed of not less than three officers having the qualifications prescribed by section 1187 of this title.

“(b) If, after reviewing the record of the case of any officer, a board of review determines that the officer has failed to establish that he should be retained on active duty, the board of review shall recommend to the Secretary concerned that the officer not be retained on active duty.

Recommendation to Secretary.

“(c)(1) If, after reviewing the record of the case of any officer, a board of review determines that the officer has established that he should be retained on active duty, the officer’s case is closed.

“(2) An officer who is required to show cause for retention under subsection (a) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may not again be required to show cause for retention under such subsection within the one-year period beginning on the date of that determination.

“(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under subsection (b) of section 1181 of this title and who is determined under paragraph (1) to have established

that he should be retained on active duty may again be required to show cause for retention at any time.

“(B) An officer who has been required to show cause for retention as a result of proceedings under subsection (b) of section 1181 of this title and who is thereafter retained on active duty may not again be required to show cause for retention on active duty under such subsection solely because of conduct which was the subject of the previous proceeding, unless the findings or recommendations of the board of inquiry or board of review that considered his case are determined to have been obtained by fraud or collusion.

10 USC 1184.

“§ 1184. Removal of officer: action by Secretary upon recommendation of board of review

“The Secretary of the military department concerned may remove an officer from active duty if the removal of such officer from active duty is recommended by a board of review convened under section 1183 of this title.

“§ 1185. Rights and procedures

“(a) Under regulations prescribed by the Secretary of Defense, each officer required under section 1181 of this title to show cause for retention on active duty—

“(1) shall be notified in writing, at least 30 days before the hearing of his case by a board of inquiry, of the reasons for which he is being required to show cause for retention on active duty;

“(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare his showing of cause for his retention on active duty;

“(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

“(4) shall be allowed full access to, and shall be furnished copies of, records relevant to his case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

Withheld records.

“(b) When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

“§ 1186. Officer considered for removal: voluntary retirement or discharge

“(a) At any time during proceedings under this chapter with respect to the removal of an officer from active duty, the Secretary of the military department concerned may grant a request by the officer—

“(1) for voluntary retirement, if the officer is qualified for retirement; or

“(2) for discharge in accordance with subsection (b)(2).

“(b) An officer removed from active duty under section 1184 of this title shall—

“(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under such provision; and

“(2) if ineligible for voluntary retirement under any provision of law on the date of such removal—

“(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 1181 of this title; or

“(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 1181 of this title.

“(c)” An officer who is discharged under subsection (b)(2) is entitled, if eligible therefor, to separation pay under section 1174(b) of this title.

Ante, p. 2870.

“§ 1187. Officers eligible to serve on boards

10 USC 1187.

“(a)(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention on active duty.

“(2) Except as provided in paragraph (3), an officer may not serve on a board under this chapter unless such officer is serving on active duty in a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by that board.

“(3) If qualified officers on active duty are not available in sufficient numbers to comprise a board convened under this chapter, the Secretary of the military department concerned shall complete the membership of the board by appointing retired officers of the same armed force who are retired in a grade above lieutenant colonel or commander and whose retired grade is senior to the grade of any officer considered by the board. A retired general or flag officer who is on active duty for the purpose of serving on a board convened under this chapter shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

Retired officers.

“(b) No person may be a member of more than one board convened under this chapter to consider the same officer.”

RETIREMENT OF REGULAR COMMISSIONED OFFICERS AT AGE 62

SEC. 111. Chapter 63, relating to retirement for age, is amended by inserting before section 1263 the following new section:

“§ 1251. Age 62: regular commissioned officers; exceptions

“(a) Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps (other than an officer who is a permanent professor, director of admissions, or registrar of the United States Military Academy or United States Air Force Academy or a commissioned warrant officer) shall be retired on the first day of the month following the month in which he becomes 62 years of age. An officer who is a permanent professor at the United States Military Academy or United States Air Force Academy, the director of admissions at the United States Military Academy, or the registrar of the United States Air Force Academy shall be retired on the first day of the month following the month in which he becomes 64 years of age.

“(b) Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above major general or rear admiral, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age. Not more than ten deferments of retirement under this subsection may be in effect at any one time.”

Retirement,
Presidential
deferment.

REQUIREMENT OF THREE YEARS SERVICE IN GRADE FOR VOLUNTARY
RETIREMENT

SEC. 112. Chapter 69, relating to retired grade, is amended by inserting before section 1371 the following new section:

10 USC 1370.

“§ 1370. Commissioned officers: general rule; exceptions

10 USC 1201 *et seq.*, 1331 *et seq.*

“(a)(1) Unless entitled to a higher retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or chapter 67 of this title shall, except as provided in paragraph (2), be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

“(2) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander and below lieutenant general or vice admiral, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years. The President may waive the preceding sentence in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.

Ante, p. 2874.

“(3) A reserve or temporary officer who is notified that he will be released from active duty without his consent and thereafter requests retirement under section 3911, 6323, or 8911 of this title and is retired pursuant to that request is considered for purposes of this section, to have been retired involuntarily. An officer retired pursuant to section 1186(b)(1) of this title is considered for purposes of this section to have been retired voluntarily.

“(b) An officer whose length of service in the highest grade he held while on active duty does not meet the service in grade requirements specified in subsection (a) shall be retired in the next lower grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

Ante, p. 2849.

“(c) Upon retirement an officer of the Army, Navy, Air Force, or Marine Corps who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral under section 601 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him while serving on active duty.”

COMPUTATION OF RETIRED PAY FOR REGULAR OFFICERS RETIRING FOR
AGE OR YEARS OF SERVICE

Post, p. 2924.

SEC. 113. (a)(1) Section 1401, relating to computation of retired pay, is amended by adding at the end of the table contained in such section the following new formula:

| | | | |
|--|---|---|---|
| "5 633 634 635 636 1251 | Monthly basic pay ¹ of member's retired grade. ⁵ | 2½% of years of service credited under section 1405. ³ | Excess over 75% of pay upon which computation is based." |
|--|---|---|---|

(2) Section 1401 is further amended by adding after the last footnote to the table contained in such section the following new footnote: 10 USC 1401.

⁵ For the purposes of this section, determine an officer's retired grade as if sections 3962(b) and 8962(b) did not apply."

(b) Section 1405, relating to years of service for computation of retired pay, is amended to read as follows:

"§ 1405. Years of service

"For the purposes of section 1401 (formulas 4 and 5), 3991 (formula B), 6151(b), 6323(e), 6325 (a)(2) and (b)(2), 6383(c)(2), or 8991 (formula B) of this title, the years of service of a member of the armed forces are computed by adding— Post, pp. 2910,
2932, 2917.

"(1) his years of active service;

"(2) the years of service, not included in clause (1), with which he was entitled to be credited on May 31, 1958, in computing his basic pay; and

"(3) the years of service, not included in clause (1) or (2), with which he would be entitled to be credited under section 1333 of this title if he were entitled to retired pay under section 1331 of this title."

Post, p. 2924.

(c) Section 1407(b)(4), relating to retired pay base, is amended by inserting "633, 634, 635, 636, 1251," before "1263,".

OFFICERS ATTENDING UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES TO BE COUNTED AGAINST AUTHORIZED MILITARY STRENGTHS

SEC. 114. The second sentence of section 2114(b), relating to students attending the Uniformed Services University of the Health Sciences, is amended by striking out ", but shall not be counted against any prescribed military strengths". Post, p. 2926.

REPEAL OF CERTAIN GENDER-BASED DIFFERENCES IN TREATMENT OF DEPENDENTS

SEC. 115. (a) Section 101, relating to definitions for purposes of title 10, is amended by striking out paragraph (36).

(b) Section 1072(2), relating to definitions for purposes of chapter 55 (medical and dental care), is amended—

(1) by striking out "wife" in clause (A) and inserting in lieu thereof "spouse";

(2) by striking out clause (C) and redesignating clauses (D), (E), and (F) as clauses (C), (D), and (E); and

(3) by striking out all of clause (C) (as redesignated by clause (B) of this paragraph) after "widower" and inserting in lieu thereof a semicolon.

EXTENSION OF RESTRICTIONS ON PERFORMANCE OF CIVIL FUNCTIONS TO ALL OFFICERS ON ACTIVE DUTY

10 USC 973.

SEC. 116. (a) Subsection (a) of section 973, relating to restrictions on performance of civil functions by officers, is amended by striking out "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard" and inserting in lieu thereof "of an armed force on active duty".

(b) Subsection (b) of such section is amended by striking out "officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard" and inserting in lieu thereof "regular officer of an armed force on active duty".

(c) The heading of such section is amended to read as follows:

"§973. Duties: officers on active duty; performance of civil functions restricted".

PERMANENT AUTHORITY FOR CERTAIN PROVISIONS RELATING TO DISABILITY RETIREMENT

SEC. 117. Sections 1201(3)(B)(iv), 1203(4)(A)(iii), and 1203(4)(C)(iii) are each amended by striking out "during the period beginning on" and all that follows through "to that effect" and inserting in lieu thereof "after September 14, 1978".

TITLE II—AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE—THE ARMY AND THE AIR FORCE

PART A—AMENDMENTS RELATING TO OFFICER APPOINTMENT, PROMOTION, SEPARATION, AND MANDATORY RETIREMENT

REPEAL OF SECTIONS PROVIDING FOR TEMPORARY APPOINTMENTS IN GRADES OF GENERAL AND LIEUTENANT GENERAL

SEC. 201. Sections 3066 and 8066, relating to generals and lieutenant generals, are repealed.

REPEAL OF SECTIONS RELATING TO THE AUTHORIZED STRENGTH OF THE ARMY AND OF THE AIR FORCE

SEC. 202. The following sections of chapters 331 and 831, relating to the strength of the Army and Air Force, are repealed: sections 3201 and 8201, 3203 and 8203, 3204 and 8204, 3205 and 8205, 3206 and 8206, 3207 and 8207, 8208, 3209 and 8209, 3211 and 8211, 3213 and 8213, 3214 and 8214, 8215, and 3216.

AUTHORIZED STRENGTH IN GRADE FOR GENERAL OFFICERS

SEC. 203. (a) Section 3202, relating to the authorized strength of the Army in officers on active duty in certain grades, is amended to read as follows:

“§ 3202. Army: strength in grade; general officers

10 USC 3202.

“(a) The authorized strength of the Army in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of officers authorized for the Army in all commissioned grades under section 521 of this title as follows:

Ante, p. 2841.

| “If the total number of officers authorized in all commissioned grades is— | The authorized strength for general officers is— |
|--|---|
| 50,000 | 350 |
| 60,000 | 400 |
| 70,000 | 425 |
| 80,000 | 450 |
| 90,000 | 475 |
| 100,000 | 495 |
| 110,000 | 510 |
| 120,000 | 520 |
| 130,000 | 530 |
| 140,000 | 540 |
| 150,000 | 550. |

If the total number of officers authorized in all commissioned grades is between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If such number is more than 150,000, the Secretary of the Army shall fix the corresponding authorized strength in general officers in general conformity with the table.

“(b) Whenever the number of general officers is less than the number authorized under this section, the difference between the two numbers may be applied to increase the number authorized under section 523 of this title for any lower grade to which such section is applicable.

Ante, p. 2842.

“(c) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this section. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.”

(b) Section 8202, relating to the authorized strength of the Air Force in officers on active duty in certain grades, is amended to read as follows:

“§ 8202. Air Force: strength in grade; general officers

“(a) The authorized strength of the Air Force in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of officers authorized for the Air Force in all commissioned grades under section 521 of this title on active duty as follows:

| "If the total number of officers authorized in all commissioned grades is— | The authorized strength for general officers is— |
|--|--|
| 50,000 | 312 |
| 60,000 | 324 |
| 70,000 | 336 |
| 80,000 | 349 |
| 90,000 | 363 |
| 100,000 | 380 |
| 110,000 | 398 |
| 120,000 | 416 |
| 130,000 | 434 |
| 140,000 | 452 |
| 150,000 | 470 |
| 160,000 | 478 |
| 170,000 | 486 |
| 180,000 | 495. |

If the actual strength in commissioned officers on active duty is between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If such strength is more than 180,000, the Secretary of the Air Force shall fix the corresponding strength in general officers in general conformity with the table.

Ante, p. 2842.

"(b) Whenever the number of general officers is less than the number authorized under this section, the difference between the two numbers may be applied to increase the number authorized under section 523 of this title for any lower grade to which such section is applicable.

"(c) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this section. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency."

REPEAL OF SECTIONS RELATING TO APPOINTMENTS OF COMMISSIONED OFFICERS IN THE REGULAR ARMY AND IN THE REGULAR AIR FORCE

SEC. 204. The following sections of chapters 335 and 835, relating to appointments in the Regular Army and Regular Air Force, are repealed: sections 3284 and 8284, 3285 and 8285, 3286 and 8286, 3287 and 8287, 3288 and 8288, 3289 and 8289, 3290, 3291, 3292, 3293 and 8293, 3294 and 8294, 3295 and 8295, 3296 and 8296, 3297 and 8297, 3298 and 8298, 3299 and 8299, 3300 and 8300, 8301, 3302 and 8302, 3303 and 8303, 3305 and 8305, 3306 and 8306, 3307 and 8307, 3308 and 8308, 3309 and 8309, 3312 and 8312, 3313 and 8313, and 3314 and 8314.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE
COMMISSIONED OFFICERS

SEC. 205. (a) Section 3353, relating to the appointment and service credit of reserve commissioned officers of the Army, is amended to read as follows:

“§ 3353. Commissioned officers: service credit upon original appointment 10 USC 3353.

“(a)(1) For the purpose of chapters 337 and 363 of this title and under regulations prescribed by the Secretary of Defense, a person receiving an original appointment as a reserve commissioned officer in the Army shall be credited at the time of such appointment with any service as a commissioned officer, except service as a commissioned warrant officer, that he performed in an active status in any armed force before such appointment. 10 USC 3351 et seq., 3843 et seq.

“(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Army to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

“(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Army and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

“(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Army shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

“(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Army.

“(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Army.

“(D) Additional credit, in unusual cases, based on special experience in a particular field.

“(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the

data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

“(F) Additional credit for experience as a physician or dentist, if appointed in the Medical or Dental Corps.

“(2) Except as authorized by the Secretary of the Army in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major.

“(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

“(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

“(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army in grades below major is critically below the number needed by the Army in such grades, he may authorize the Secretary of the Army to credit any person receiving an original appointment in the Judge Advocate General's Corps with a view to an immediate call to active duty with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.”

(b) Section 8353, relating to the appointment and service credit of reserve commissioned officers of the Air Force, is amended to read as follows:

10 USC 8353.

“§ 8353. Commissioned officers: service credit upon original appointment

10 USC 3351 *et seq.*, 3843 *et seq.*

“(a)(1) For the purpose of chapters 337 and 363 of this title and under regulations prescribed by the Secretary of Defense, a person receiving an original appointment as a reserve commissioned officer in the Air Force shall be credited at the time of such appointment with any service as a commissioned officer, except service as a commissioned warrant officer, that he performed in an active status in any armed force before such appointment.

Regulations.

“(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Air Force to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

“(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Air Force and who has advanced education or training or special experi-

ence with constructive service for such education, training, or experience as follows:

“(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Air Force shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

“(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Air Force.

“(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Air Force.

“(D) Additional credit, in unusual cases, based on special experience in a particular field.

“(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

“(F) Additional credit for experience as a physician or dentist, if appointed with a view to designation as a medical or dental officer.

“(2) Except as authorized by the Secretary of the Air Force in individual cases and under regulations prescribed by the Secretary of Defense in the case of an officer appointed with a view to designation as a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major.

“(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

“(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

“(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Air Force in grades below major is critically below the number needed by the Air Force in such grades, he may authorize the Secretary of the Air Force to credit any person receiving an original appointment in the Judge Advocate General’s Corps with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.”.

EXCLUSION OF RESERVE OFFICERS ON THE ACTIVE-DUTY LIST FROM CERTAIN PROVISIONS RELATING TO APPOINTMENTS OF RESERVE OFFICERS

SEC. 206. (a) Chapter 337, relating to appointments as reserve officers of the Army, is amended by adding at the end thereof the following new section:

10 USC 3396.

“§ 3396. Exclusion of officers on the active-duty list

“The preceding sections of this chapter, except section 3353, do not apply to reserve officers on the active-duty list.”.

(b) Chapter 837, relating to appointments as reserve officers of the Air Force, is amended by adding at the end thereof the following new section:

“§ 8396. Exclusion of officers on the active-duty list

“The preceding sections of this chapter, except section 8353, do not apply to reserve officers on the active-duty list.”.

REPEAL OF SECTIONS RELATING TO TEMPORARY APPOINTMENTS OF COMMISSIONED OFFICERS

SEC. 207. The following sections of chapters 339 and 839, relating to temporary appointments of commissioned officers, are repealed: sections 3441 and 8441, 3442 and 8442, 3444 and 8444, 3445 and 8445, 3447 and 8447, 3451 and 8451, and 3452 and 8452.

REPEAL OF SECTIONS RELATING TO TEMPORARY APPOINTMENTS OF WARRANT OFFICERS

SEC. 208. Sections 3448 and 8448, relating to temporary appointments of warrant officers, and 3449 and 8449, relating to temporary promotions of warrant officers, are repealed.

GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY

Repeal.

SEC. 209. (a) Sections 3494 and 8494, relating to the grade in which reserve commissioned officers of the Army and Air Force are ordered to active duty, are repealed.

RETIRED REGULAR MEMBERS ORDERED TO ACTIVE DUTY

Repeal.

SEC. 210. Sections 3504 and 8504, relating to the ordering of retired regular members of the Army and Air Force to active duty, are repealed.

REPEAL OF SECTIONS RELATING TO RANK AND COMMAND

SEC. 211. The following sections of chapters 345 and 845, relating to rank and command, are repealed: sections 3571 and 8571, 3573 and 8573, 3574 and 8574, and 3582 and 8582.

COMMAND BY COMMISSIONED OFFICERS OF THE ARMY MEDICAL DEPARTMENT AND BY COMMISSIONED OFFICERS OF THE AIR FORCE IN CERTAIN CATEGORIES

SEC. 212. (a) Section 3579, relating to the exercise of command by officers of the Army Medical Department, is amended—

- (1) by striking out “, other than an officer of the Army Nurse Corps or Army Medical Specialist Corps,” in subsection (a);
- (2) by striking out subsection (b); and
- (3) by redesignating subsection (c) as subsection (b).

(b) The text of section 8579, relating to the exercise of command by Air Force officers in certain designated categories, is amended to read as follows:

“An officer designated as a medical, dental, veterinary, medical service, or biomedical sciences officer or as a nurse is not entitled to exercise command because of rank, except within the categories prescribed in subsection (a), (b), (c), (d), (e), (f), or (i) of section 8067 of this title, or over persons placed under his charge.”

Post, p. 2916.

REPEAL OF CHAPTERS PROVIDING FOR INVOLUNTARY SEPARATION OF REGULAR OFFICERS FOR UNSATISFACTORY PERFORMANCE OF DUTY AND FOR CERTAIN OTHER REASONS

SEC. 213. Chapters 359 and 859, relating to separation from the Regular Army and from the Regular Air Force for substandard performance of duty, and 360 and 860, relating to separation from the Regular Army and from the Regular Air Force for moral or professional dereliction or in interests of national security, are repealed.

10 USC 3781 *et seq.*, 3781 *et seq.*
10 USC 3791 *et seq.*, 3791 *et seq.*

REPEAL OF SECTIONS AUTHORIZING DISCHARGE OF REGULAR OFFICERS DURING THREE-YEAR PROBATIONARY PERIOD

SEC. 214. Sections 3814 and 8814, relating to the discharge of regular commissioned officers with less than three years of commissioned service, are repealed.

RETENTION IN AN ACTIVE STATUS OF CERTAIN RESERVE OFFICERS UNTIL AGE 60

SEC. 215. (a) Section 3855, relating to the retention in active status of certain reserve officers until age 60, is amended—

- (1) by inserting “the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps,” after “Veterinary Corps,” and
- (2) by adding at the end thereof the following new sentence:

“An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.”

(b) Section 8855, relating to the retention in active status of certain officers until age 60, is amended—

- (1) by inserting “optometrist, podiatrist,” after “veterinary officer,”;

(2) by striking out "Air Force medical specialist" and inserting in lieu thereof "biomedical sciences officer"; and

(3) by adding at the end thereof the following new sentence: "An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement."

REPEAL OF CHAPTERS RELATING TO RETIREMENT FOR AGE OF REGULAR COMMISSIONED OFFICERS

SEC. 216. Chapters 365 and 865, relating to retirement for age of regular commissioned officers, are repealed.

REPEAL OF SECTIONS RELATING TO RETIREMENT FOR LENGTH OF SERVICE

10 USC 3883 *et seq.*, 8883 *et seq.*

SEC. 217. (a) The following sections of chapters 367 and 867, relating to retirement for length of service, are repealed: sections 3913 and 8913, 8915, 3916 and 8916, 3919 and 8919, 3921 and 8921, 3922 and 8922, 3923 and 8923, and 3927 and 8927.

**DIRECTOR OF ADMISSIONS OF UNITED STATES MILITARY ACADEMY;
REGISTRAR OF THE UNITED STATES AIR FORCE ACADEMY**

SEC. 218. (a) Section 4336, relating to the director of admissions at the United States Military Academy, is amended by striking out subsection (c).

(b) Section 9336, relating to the registrar at the United States Air Force Academy, is amended by striking out subsection (c).

PART B—MISCELLANEOUS AMENDMENTS

AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE ARMY

SEC. 231. Section 3064, relating to the special branches of the Army, is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of clause (2);

(B) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause: "(4) such other special branches as may be established by the Secretary of the Army under subsection (b).";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) The Secretary of the Army may establish special branches for the Army and may appoint commissioned officers in, and may assign members to, such branches."

PERSONNEL DETAILED OUTSIDE THE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTHS

Repeals.

SEC. 232. Sections 3230 and 8230, relating to personnel detailed outside the Department of Defense, are repealed.

OFFICERS SERVING AS CHIEF OF STAFF TO THE PRESIDENT

SEC. 233. (a) Section 3531, relating to the appointment of an Army general officer as the Chief of Staff to the President, is repealed. Repeal. 10 USC 3531.

(b) Section 8531, relating to the appointment of an Air Force general officer as the Chief of Staff to the President, is repealed. Repeal.

GRADE OF THE SPECIAL ASSISTANT TO COMPTROLLER OF THE DEPARTMENT OF DEFENSE

SEC. 234. Section 3532, relating to the grade of the Special Assistant to the Comptroller of the Department of Defense, is repealed. Repeal.

RANK, PAY, AND ALLOWANCES OF ASSISTANT TO THE CHIEF OF ENGINEERS

SEC. 235. Section 3535, relating to the rank, pay, and allowances of the Assistant to the Chief of Engineers in charge of civil works, is repealed. Repeal.

REPEAL OF SECTIONS AUTHORIZING TERMINATION OF APPOINTMENT OR ENLISTMENT OF REGULAR FEMALE MEMBERS

SEC. 236. Section 3818 and 8818, relating to the termination of appointments and enlistments of female members, are repealed.

REPEAL OF PROHIBITION ON WOMEN BEING ENLISTED AS AVIATION CADETS IN THE REGULAR AIR FORCE

SEC. 237. Section 8257, relating to qualifications of aviation cadets in the Regular Air Force, is amended by striking out "male" both places it appears in such section.

TITLE III—AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE—THE NAVY AND MARINE CORPS

PART A—PERMANENT GRADE OF COMMODORE ADMIRAL IN THE NAVY

ESTABLISHMENT OF PERMANENT COMMODORE ADMIRAL GRADE

SEC. 301. Section 5501 is amended to read as follows:

"§ 5501. Navy: grades above chief warrant officer, W-4

"The commissioned grades in the Navy above the grade of chief warrant officer, W-4, are the following:

- "(1) Admiral.
- "(2) Vice admiral.
- "(3) Rear admiral.
- "(4) Commodore admiral.
- "(5) Captain.
- "(6) Commander.
- "(7) Lieutenant commander.
- "(8) Lieutenant.
- "(9) Lieutenant (junior grade).
- "(10) Ensign."

NUMBER OF NAVY STAFF CORPS OFFICERS SERVING IN GRADES OF
COMMODORE ADMIRAL AND REAR ADMIRAL

SEC. 302. Section 5444 is amended to read as follows:

10 USC 5444.

“§5444. Navy: staff corps officers on active duty; commodore admirals and rear admirals

“(a) The total number of officers serving on active duty in the grades of commodore admiral and rear admiral in the staff corps of the Navy excluding any flag officer serving as a Chief of Bureau, may not exceed a number appropriate to the total number of officers in all the staff corps serving on active duty, as set forth in the following table. If the total number of officers on active duty in all the staff corps falls between two strengths shown in the first column of the table, the number of rear admirals and commodore admirals is determined by proportionate interpolation between the numbers of the two strengths.

| “Total number of officers in all the staff corps on active duty: | Number of rear admirals and commodore admirals |
|--|--|
| 9,000..... | 44 |
| 13,000..... | 53 |
| 19,000..... | 57 |
| 27,000..... | 61 |
| 32,000..... | 64 |
| 37,000..... | 67 |

Computation.

“(b) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral in all the staff corps. The number so computed is the number of officers on active duty specified for the grades of commodore admiral and rear admiral in all the staff corps. If the Secretary determines at the time of making any such computation that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral for all the staff corps is less than the specified number for such grades for all the staff corps, the lesser number becomes the specified number for such grades for all the staff corps and the reduction may be applied as an increase in the authorized number for any lower grade of the Navy under section 523 of this title.

Ante, p. 2842.

“(c) Each officer in a staff corps who serves as a chief of bureau and who, before or during that service, is appointed to the grade of commodore admiral or rear admiral under section 624 of this title shall, upon termination of his appointment as chief of bureau, be carried in excess of the prescribed number until the next vacancy occurs in his grade in his corps.

Ante, p. 2857.

“(d) The prescribed number of officers computed or determined under this section may not be varied between computations.

“(e) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral and each officer in a grade to which he was appointed under section 603 of this title is

Ante, p. 2850.

counted in the grade he would hold had he not been so appointed or promoted.

“(f) The Secretary shall prescribe the number of rear admirals in each staff corps. The total of the prescribed numbers of rear admirals for all the staff corps may not exceed 50 percent of the total number computed under subsection (b). The Secretary shall further prescribe the number of commodore admirals in each staff corps. The prescribed number of rear admirals for any staff corps may not exceed the prescribed number of commodore admirals for that staff corps.

Staff corps,
limitation.

“(g) For the purpose of computing the total number of flag officers in the staff corps of the Navy, flag officers of the Judge Advocate General's Corps shall be considered additional numbers in grade.”

PART B—AMENDMENTS RELATING TO OFFICER STRENGTH AND DISTRIBUTION IN GRADE

REPEAL OF SECTIONS RELATING TO THE STRENGTH OF THE NAVY AND MARINE CORPS

SEC. 311. (a) The following sections of chapter 531, relating to the authorized strength of the Navy and Marine Corps, are repealed: sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, and 5417.

(b) The heading of such chapter is amended to read as follows:

“CHAPTER 531—STRENGTH OF NAVAL RESERVE AND MARINE CORPS RESERVE”.

PERSONNEL DETAILED OUTSIDE THE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTH

SEC. 312. Section 5416, relating to personnel detailed outside the Department of Defense, is repealed.

Repeal.
10 USC 5416.

AMENDMENTS RELATING TO NUMBER AND DISTRIBUTION IN GRADE OF FLAG AND GENERAL OFFICERS

SEC. 313. (a) Section 5441, relating to the terms “prescribed number” and “vacancy”, is amended by striking out “or combination of grades” each place it appears.

(b) Section 5442, relating to the number of Navy line officers on active duty, is amended to read as follows:

“§5442. Navy: line officers on active duty; commodore admirals and rear admirals

“(a) Of the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above (excluding officers in categories specified in section 523(b) of this title), the number of officers who may serve in the grades of commodore admiral and rear admiral may not, except as provided in subsection (b), exceed a number appropriate to the number set forth in the following table. If the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above (excluding officers in categories specified in section 523(b) of this title) falls between two strengths shown in the first column of the table, the number for the grades of commodore admiral and rear admiral is determined by proportionate interpolation between the respective numbers for the two strengths.

| "Total number of line officers serving on active duty in the grade of ensign and above (excluding officers carried as additional numbers in grade): | Number of commodore admirals and rear admirals |
|---|--|
| 32,000..... | 215 |
| 40,000..... | 222 |
| 50,000..... | 228 |
| 60,000..... | 237 |
| 70,000..... | 244 |
| 80,000..... | 252 |
| 90,000..... | 259 |
| 100,000..... | 262 |
| 125,000..... | 291 |
| 150,000..... | 305 |
| 175,000..... | 323 |
| 200,000..... | 342 |
| 250,000..... | 379. |

Computation.

"(b)(1) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral. The number so computed for such grades shall be the number of officers on active duty (excluding officers in categories specified in section 523(b) of this title) specified for such grades. If at the time of making computations under this subsection the Secretary determines that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral is less than the specified number for such grades, the lesser number becomes the specified number for such grades. Any reduction under this subsection may be applied as an increase in the prescribed number for any lower grade.

Ante, p. 2842.

"(2) When making a computation under this subsection, the Secretary shall prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral is the number specified in this subsection less the number prescribed for the grade of rear admiral.

Limitation.

"(c)(1) Whenever the needs of the service require but at least once annually, the Secretary of the Navy shall specify the total number of officers designated for engineering duty, aeronautical engineering duty, and special duty who may be serving on active duty in the grades of commodore admiral and rear admiral. Such number may not exceed 13 percent of the number of officers specified in subsection (b) for the grades of commodore admiral and rear admiral. If at the time of making a specification under this subsection, the Secretary determines that the total number of such officers required to meet the needs of the service in the grades of commodore admiral and rear admiral is less than the specified number for such grades as specified under this subsection, the lesser number becomes the specified numbers for officers in such grades. Any reduction under this subsection may be applied as an increase in the prescribed number for any lower grade.

"(2) When making a specification under this subsection, the Secretary shall prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral shall be the number specified in this subsection less the number prescribed for the grade of rear admiral.

"(3) For the purpose of subsection (a), all officers designated for engineering duty, aeronautical engineering duty, and special duty are additional numbers in grade.

“(d) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one computation and the next succeeding computation by—

“(1) the number of officers of the Naval Reserve ordered to active duty in that grade during that period; and

“(2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

“(e) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral, and each officer serving in the grade of commodore admiral or rear admiral who was appointed under section 603 of this title or promoted under section 624 of this title, is counted in the grade he would hold had he not been so appointed or promoted.

Ante, p. 2850.

Ante, p. 2857.

“(f) The sum of the prescribed numbers for the grade of rear admiral under subsections (b) and (c) may not exceed 50 percent of the sum of the numbers specified under such subsections for the grades of commodore admiral and rear admiral.”

(c)(1) Subsection (a) of section 5443, relating to the number of officers of the Marine Corps on active duty, is amended to read as follows: 10 USC 5443.

“(a) Except as provided in subsection (b), the number of officers in the Marine Corps who may serve on active duty in the grades of brigadier general and major general may not exceed a number appropriate to the total number of officers serving on active duty in the Marine Corps in the grade of second lieutenant or above as set forth in the following table. If the total number of officers serving on active duty in the grade of second lieutenant or above (excluding officers in categories specified in section 523(b) of this title) falls between two strengths shown in the first column of the table, the number for the grades of brigadier general and major general is determined by interpolation between the respective numbers for the two strengths.

Ante, p. 2842.

| “Total number of officers serving on active duty in the grade of second lieutenant and above: | Number of brigadier generals and major generals |
|---|---|
| 10,000..... | 58 |
| 12,500..... | 62 |
| 15,000..... | 69 |
| 17,500..... | 72 |
| 20,000..... | 75 |
| 22,500..... | 79 |
| 25,000..... | 82 |
| 27,500..... | 84 |
| 30,000..... | 85 |
| 32,500..... | 87 |
| 35,000..... | 89”. |

(2) The last sentence of subsection (b) of such section is amended by striking out “subsection (c)” and inserting in lieu thereof “section 523(a)(1) of this title”.

(3) Subsections (c), (d), (e), and (f) of such section are repealed. Repeals.

(4) Subsection (g) of such section is redesignated as subsection (c) and is amended by striking out clause (1) and redesignating clauses (2) and (3) as clauses (1) and (2), respectively.

(5) Subsection (h) of such section is redesignated as subsection (d), and the second sentence of such subsection is amended to read as follows: "However, each officer serving under an appointment in the grade of general or lieutenant general, and each officer serving in the grade of brigadier general or major general who was appointed under section 603 of this title, is counted in the grade he would hold had he not been so appointed or promoted."

Ante, p. 2850.

(6) The heading of such section is amended to read as follows:

"§ 5443. Marine Corps: officers on active duty; brigadier generals and major generals".

Repeals.
10 USC 5445.

(d)(1) Section 5445, relating to the suspension of sections 5442, 5443, and 5444, is repealed.

(2) Section 5447, relating to the permanent grade distribution of Navy line officers on the active list, is repealed.

(3) Section 5448, relating to the permanent grade distribution of Marine Corps officers of the active list, is repealed.

(4) Section 5449, relating to the number of Navy staff corps officers on the active list in the permanent grade of rear admiral, is repealed.

(e) Section 5457(a), relating to the authorized strength of the Naval Reserve in officers in an active status in the grade of rear admiral, is amended—

(1) by striking out "grade of rear admiral" and inserting in lieu thereof "grades of commodore admiral and rear admiral"; and

(2) by adding at the end thereof the following new sentence: "Not more than 50 percent of the officers in an active status authorized under this subsection may serve in the grade of rear admiral."

REPEAL OF SECTIONS RELATING TO LINEAL LISTS

SEC. 314. Sections 5504, relating to the maintenance of lineal lists, and 5505, relating to changes on the position on the lineal list of reserve officers, are repealed.

PART C—AMENDMENTS RELATING TO ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS IN THE NAVY AND MARINE CORPS

REPEAL OF CERTAIN SECTIONS OF CHAPTER 539 RELATING TO ORIGINAL APPOINTMENTS IN THE NAVY AND MARINE CORPS SUPERSEDED BY NEW CHAPTER 36

SEC. 321. The following sections of chapter 539, relating to original appointments in the Navy and Marine Corps, are repealed: sections 5571, 5572, 5573a, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5583, 5584, and 5586.

REPEAL OF SECTION PROVIDING FOR APPOINTMENT OF GRADUATES OF THE UNITED STATES NAVAL ACADEMY

SEC. 322. Section 5573, relating to appointment of graduates of the Naval Academy, is repealed.

REPEAL OF SECTIONS LIMITING NUMBER OF ENSIGNS APPOINTED
ANNUALLY IN CERTAIN STAFF CORPS

SEC. 323. (a) Section 5591, relating to the maximum number of ensigns that may be appointed annually in the Supply Corps of the Regular Navy, is repealed. 10 USC 5591.

(b) Section 5592, relating to the maximum number of ensigns that may be appointed annually in the Civil Engineer Corps of the Regular Navy, is repealed.

(c) Section 5593, relating to the maximum number of ensigns that may be appointed annually in the Medical Service Corps of the Regular Navy, is repealed.

(d) Section 5594, relating to the maximum number of ensigns that may be appointed annually in the Nurse Corps of the Regular Navy, is repealed.

(e) Section 5595, relating to restrictions on the appointment of former midshipmen and cadets in the Regular Marine Corps, is repealed.

ORIGINAL APPOINTMENTS IN THE REGULAR NAVY OF OFFICERS DESIGNATED FOR ENGINEERING, AERONAUTICAL, AND SPECIAL DUTY

SEC. 324. (a) Subsection (a) of section 5587, relating to officers designated for engineering, aeronautical engineering, and special duty, is amended to read as follows:

“(a) Persons may be originally appointed in the line of the Navy as regular officers designated for engineering duty, aeronautical engineering duty, or special duty.”

(b) Subsection (b) of such section is amended by striking out “any officer on the active list” and inserting in lieu thereof “a regular officer”.

(c) The third sentence of subsection (c) of such section is amended by striking out “public information, psychology,” and inserting in lieu thereof “public affairs, psychology, geophysics, cryptography.”

(d) Subsection (d) of such section is amended by striking out “are additional numbers in grade. They”.

ORIGINAL APPOINTMENTS OF REGULAR OFFICERS DESIGNATED FOR LIMITED DUTY

SEC. 325. Section 5589, relating to Regular Navy and Regular Marine Corps officers designated for limited duty, is amended—

(1) by striking out that portion of subsection (a) preceding clause (1) and inserting in lieu thereof the following:

“(a) Original appointments as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 5155(b) of this title and designated by the Secretary for the purposes of this section may be made from—”;

Post, p. 2902.

(2) by striking out that portion of subsection (b) preceding clause (1) and inserting in lieu thereof the following:

“(b) Original appointments as regular officers of the Marine Corps in a grade below major may be made from—”; and

(3) by inserting “the qualifications specified in section 532(a) of this title and have” in subsection (c) after “must have”.

Ante, p. 2845.

TEMPORARY APPOINTMENTS IN WARRANT OFFICER GRADES AND OF
OFFICERS DESIGNATED FOR LIMITED DUTY

SEC. 326. Section 5596, relating to temporary appointments, is amended to read as follows:

10 USC 5596.

“§ 5596. Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty

“(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments—

“(1) in warrant officer grades; and

“(2) of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 5589 of this title.

Such appointments shall be made by warrant if in the grade of warrant officer, W-1, and by commission if in a higher grade.

“(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

Ineligibility.

“(c) The following members of the naval service are ineligible for temporary appointments under this section:

“(1) Retired members.

“(2) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty for training.

“(3) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

“(4) Members of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

“(d) Officers designated for limited duty under subsection (a)(2) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

Ante, p. 2850.

Termination.

“(e) The Secretary of the Navy may terminate any appointment made under this section.”

REPEAL OF SECTIONS AUTHORIZING TEMPORARY APPOINTMENTS OF
NAVY AND MARINE CORPS OFFICERS

SEC. 327. Sections 5597, 5598, and 5599, relating to temporary appointments in the Navy and Marine Corps during a war or national emergency, are repealed.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE
COMMISSIONED OFFICERS

SEC. 328. Section 5600, relating to service credit upon original appointment to the Naval Reserve and Marine Corps Reserve, is amended to read as follows:

"§ 5600. Naval Reserve and Marine Corps Reserve: service credit upon original appointment 10 USC 5600.

"(a)(1) Under regulations prescribed by the Secretary of Defense, for the purpose of determining the grade, seniority in grade, and eligibility for promotion of a person who is originally appointed as a commissioned officer in a permanent grade above chief warrant officer, W-4, in the Naval Reserve or Marine Corps Reserve, such person shall be credited at the time of such appointment with any service as a commissioned officer, other than a commissioned warrant officer, that he performed in an active status in any armed force before such appointment.

"(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Navy to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

Regulations.

"(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Navy or Marine Corps and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Navy shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

"(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Navy or Marine Corps, as appropriate.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Navy or Marine Corps, as appropriate.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional educa-

tion required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

Medical or
dental
experience,
credit.

“(F) Additional credit for experience as a physician or dentist, if appointed in the Medical or Dental Corps.

“(2) Except as authorized by the Secretary of the Navy in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of lieutenant commander or major.

“(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

“(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

“(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Navy or the Marine Corps in grades below lieutenant commander or major is critically below the number needed by the Navy or Marine Corps, respectively, in such grades, he may authorize the Secretary of the Navy to credit any person to whom this section applies who is receiving an original appointment in the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person, if ordered to active duty, being that of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty in the Navy or Marine Corps, as the case may be.”

REPEAL OF SECTION AUTHORIZING DIRECT PROCUREMENT OF ENSIGNS
AND SECOND LIEUTENANTS

SEC. 329. Section 6909, relating to direct procurement of ensigns and second lieutenants, is repealed.

PART D—AMENDMENTS RELATING TO PROMOTIONS, SEPARATION, AND
INVOLUNTARY RETIREMENT OF COMMISSIONED OFFICERS

REPEAL OF CHAPTER PROVIDING FOR APPOINTMENTS TO FLEET COM-
MANDS AND OTHER POSITIONS OF IMPORTANCE AND RESPONSIBILITY

SEC. 331. Chapter 517, relating to certain positions carrying the grade of admiral, vice admiral, general, or lieutenant general, is repealed.

ABOLISHMENT FOR REGULAR OFFICERS OF NAVY RUNNING MATE SYSTEM AND ASSIGNMENT OF RUNNING MATES TO RESERVE OFFICERS

SEC. 332. Chapter 541, relating to running mates, is amended to read as follows:

“CHAPTER 541—RUNNING MATES FOR RESERVE OFFICERS

“Sec.

“5665. Naval Reserve and Marine Corps Reserve: active status officers in permanent grades above chief warrant officer, W-4.

“§ 5665. Naval Reserve and Marine Corps Reserve: active status officers in permanent grades above chief warrant officer, W-4 10 USC 5665.

“(a) While in the grade of lieutenant (junior grade) or in a higher grade, each officer in an active status in the Naval Reserve who is not on an active-duty list has a running mate of the same grade from the active-duty list who shall be assigned under regulations prescribed by the Secretary of the Navy.

“(b) While in the grade of first lieutenant or a higher grade, each officer in an active status in the Marine Corps Reserve who is not on an active-duty list has a running mate of the same grade from the active-duty list who shall be assigned under regulations prescribed by the Secretary of the Navy.”.

REPEAL OF CHAPTERS RELATING TO SELECTION BOARDS, PROMOTION OF OFFICERS, AND EXAMINATIONS FOR PROMOTIONS

SEC. 333. Chapters 543, relating to selection boards, 545, relating to promotion of officers, and 547, relating to examinations for promotion of officers, are repealed. 10 USC 5701 *et seq.*, 5751 *et seq.*, 5861 *et seq.*

TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

SEC. 334. Part II of subtitle C is amended by inserting after chapter 541 (as amended by section 332) the following new chapter:

“CHAPTER 544—TEMPORARY APPOINTMENTS

“Sec.

“5721. Temporary promotions of certain Navy lieutenants.

“§ 5721. Temporary promotions of certain Navy lieutenants

“(a) An officer in the line of the Navy in the grade of lieutenant who—

“(1) has a skill in which the Navy has a critical shortage of personnel (as determined by the Secretary of the Navy); and

“(2) is serving in a position (as determined by the Secretary of the Navy) which (A) is designated to be held by a lieutenant commander, and (B) requires that an officer serving in such position have the skill possessed by such officer,

may be temporarily promoted to the grade of lieutenant commander under regulations to be prescribed by the Secretary of the Navy. Appointments under this section shall be made by the President alone.

“(b)(1) An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in

Ante, p. 2842.

regard to other promotions or appointments, or abridge the rights or benefits of the officer.

“(2) For the purposes of section 523 of this title, an officer holding an appointment under this section is considered as serving in the grade of lieutenant commander.

Temporary promotion.

“(c) A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the Navy for the purpose of recommending officers for such promotions.

“(d) Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of lieutenant commander from the date the appointment is made.

Appointment, termination.

“(e) Unless sooner terminated, an appointment under this section terminates—

“(1) on the date the officer who received the appointment is promoted to the permanent grade of lieutenant commander; or

“(2) on the date the officer is detached from a position described in subsection (a)(2), unless the officer is on a promotion list to the permanent grade of lieutenant commander, in which case the appointment terminates on the date the officer is promoted to that grade.

Authority termination.

“(f) The authority to make appointments under this section terminates on September 30, 1983.”.

REPEAL OF SECTIONS RELATING TO INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

SEC. 335. The following sections of chapter 573 are repealed: sections 6371, 6372, 6373, 6374, 6376, 6377, 6378, 6379, 6380, 6381, 6382, 6384, 6385, 6386, 6387, 6388, 6390, 6392, 6394, 6395, 6396, 6398, 6400, 6401, 6402, and 6407.

RETIREMENT OR DISCHARGE OF REGULAR LIMITED DUTY OFFICERS

10 USC 6383.

SEC. 336. (a) Subsection (a) of section 6383, relating to retirement and discharge of officers designated for limited duty, is amended by striking out “Each officer designated for limited duty on the active list of the Navy or Marine Corps” and inserting in lieu thereof “Except as provided in subsection (i), each regular officer of the Navy or Marine Corps designated for limited duty”.

(b) Subsection (b) of such section is amended to read as follows:

“(b) Except as provided in subsection (i), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.”.

(c) Subsection (c)(1) of such section is amended by striking out "in which he was serving at the time of retirement" and inserting in lieu thereof "determined under section 1370 of this title".

Ante, p. 2876.

(d) Subsections (d) and (e) of such section are amended to read as follows:

"(d) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

"(e)(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant (in the case of an officer of the Navy) or captain (in the case of an officer of the Marine Corps) for the second time shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time.

"(2) Each regular officer on the active-duty list of the Navy serving in the grade of ensign who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of second lieutenant who is an officer designated for limited duty, who is found not qualified for promotion to the grade of lieutenant (junior grade) (in the case of an officer of the Navy) or first lieutenant (in the case of an officer of the Marine Corps) shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the officer was found not qualified for promotion."

(e) Subsection (f) of such section is repealed.

Repeal.

(f) Subsection (g) of such section is redesignated as subsection (f) and is amended—

(1) by striking out "retirement or discharge under subsections (b), (d)," in the first sentence and inserting in lieu thereof "discharge under subsection (d)"; and

(2) by striking out "retired or" in the first and second sentences.

(g) Subsection (h) of such section is redesignated as subsection (g).

(h) Such section is further amended by adding at the end thereof the following new subsections:

"(h) An officer discharged under this section is entitled, if eligible therefor, to separation pay under section 1174(a) of this title.

Separation pay.
Ante, p. 2870.

Ante, p. 2851.

“(i) Under such regulations as he may prescribe, whenever the needs of the service require, the Secretary of the Navy may defer the retirement under subsection (a) or (b) of any officer designated for limited duty upon recommendation of a board of officers convened under section 611(b) of this title and with the consent of the officer concerned. An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 24 years active commissioned service, if in the grade of lieutenant commander or major or 28 years active commissioned service, if in the grade of commander or lieutenant colonel, or beyond age 62, whichever is earlier.

Ante, p. 2894.

“(j) This section does not apply to officers designated for limited duty under section 5596 of this title.”

(i) The heading of such section is amended by striking out the penultimate and ante-penultimate words.

ELIMINATION OF RESERVE OFFICERS FROM ACTIVE STATUS

10 USC 6389.

SEC. 337. (a)(1) Subsection (b) of section 6389, relating to elimination of reserve officers from active status, is amended by inserting “or (f)” in the first sentence after “subsection (a)”.

(2) The second sentence of subsection (d) of such section is amended to read as follows: “Each other officer is considered to have for this purpose as much total commissioned service as the years of active commissioned service of any regular officer on the active-duty list of the Navy not restricted in the performance of duty, or any regular officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as an ensign on the active-duty list of the Navy or as a second lieutenant on the active-duty list of the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer.”

(3) Subsection (e) of such section is amended to read as follows:

“(e) This section does not apply to women reserve officers or to reserve officers in the Nurse Corps.”

(4) Such section is amended by adding at the end thereof the following new subsection:

“(f)(1) Each officer of the Naval Reserve in an active status in the permanent grade of commodore admiral and each officer of the Marine Corps Reserve in an active status in the permanent grade of brigadier general shall, 30 days after he completes 30 years of service computed under subsection (d), or on the fifth anniversary of the date of his appointment to that grade, whichever is later—

“(A) be transferred to the Retired Reserve, if he is qualified and applies therefor, or

“(B) if he is not qualified or does not apply therefor, be discharged from his reserve component.

An officer who has been recommended for promotion, and who would otherwise be removed from an active status under this section, shall be retained in that status until he is appointed or refused appointment to the next higher grade.

“(2) Each officer of the Naval Reserve in an active status in the permanent grade of rear admiral and each officer of the Marine Corps Reserve in an active status in the permanent grade of major general shall, 30 days after he completes 35 years of service computed under subsection (d), or on the fifth anniversary of the date of his appointment to that grade, whichever is later—

“(A) be transferred to the Retired Reserve, if he is qualified and applies therefor; or

“(B) if he is not qualified or does not apply therefor, be discharged from his reserve component.

“(3) An officer in the Naval Reserve in an active status serving in the grade of commodore admiral or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement by a continuation board convened under section 6410 of this title.”.

ELIMINATION FROM ACTIVE STATUS IN THE NAVAL RESERVE OF OFFICERS IN THE NURSE CORPS

SEC. 338. Subsection (a) of section 6397, relating to the elimination of reserve officers in the Nurse Corps from active status, is amended to read as follows: 10 USC 6397.

“(a) An officer of the Naval Reserve in any grade in the Nurse Corps may be eliminated from an active status under the conditions prescribed in this title for the separation from the active-duty list of a regular officer in the same grade.”.

PART E—AMENDMENTS RELATING TO SPECIFIC POSITIONS

RANK AND PRIVILEGES OF RETIREMENT OF THE DIRECTOR OF THE OFFICE OF BUDGET AND REPORTS

SEC. 341. Section 5064, relating to the Director and Assistant Director of the Office of Budget and Reports, is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

GRADE OF THE CHIEF OF DENTAL DIVISION, BUREAU OF MEDICINE AND SURGERY

SEC. 342. Section 5138(a), relating to the grade of the Chief of the Dental Division in the Bureau of Medicine and Surgery, is amended by striking out “in the grade of rear admiral” and inserting in lieu thereof “not below the grade of commodore admiral”.

RANK AND GRADE OF JUDGE ADVOCATE GENERAL OF THE NAVY

SEC. 343. Section 5148(b), relating to the Judge Advocate General of the Navy, is amended by adding at the end thereof the following new sentence: “While so serving, the Judge Advocate General of the Navy shall be entitled to the rank and grade of rear admiral or major general, as appropriate, unless entitled to a higher rank and grade under another provision of law.”.

ABOLISHMENT OF POSITIONS OF ASSISTANT TO THE CHIEF OF NAVAL PERSONNEL FOR WOMEN AND DIRECTOR OF WOMEN MARINES

SEC. 344. (a) Section 5143, relating to the Assistant to the Chief of Naval Personnel for Women, is repealed. Repeal.

(b) Section 5206, relating to the Director of Women Marines, is repealed. Repeal.

**PART F—ABOLISHMENT OF CERTAIN NAVY STAFF CORPS; AUTHORITY
TO ESTABLISH NEW STAFF CORPS IN THE NAVY**

AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE NAVY

SEC. 351. Chapter 513, relating to bureaus and certain offices in the Navy, is amended by adding at the end thereof the following new section:

10 USC 5155.

“§ 5155. Staff corps of the Navy

“(a) The staff corps of the Navy are—

“(1) the Medical Corps;

“(2) the Dental Corps;

“(3) the Judge Advocate General's Corps;

“(4) the Chaplain Corps; and

“(5) such other staff corps as may be established by the Secretary of the Navy under subsection (b).

Establishment.

“(b)(1) The Secretary of the Navy may establish staff corps of the Navy in addition to the Medical Corps, the Dental Corps, the Judge Advocate General's Corps, and the Chaplain Corps. The Secretary may designate commissioned officers in, and may assign members to, any such staff corps.

“(2) Subject to subsection (c), the Secretary of the Navy may provide for the appointment of the chief of any staff corps established under this subsection.

“(c) The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or Medical Service Corps for promotion to the grade of commodore admiral or rear admiral, as appropriate. An officer so selected shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years to serve in the position, respectively, of Director of the Nurse Corps or Director of the Medical Service Corps.”

ABOLISHMENT OF MEDICAL SERVICE CORPS AND NURSE CORPS

Repeals.

SEC. 352. (a) Section 5139, relating to the Medical Service Corps, and 5140, relating to the Nurse Corps, are repealed.

Repeal.

(b) Section 6028, relating to the Medical Service Corps, is repealed.

COMPOSITION OF MEDICAL DEPARTMENT OF THE NAVY

SEC. 353. Section 6027 is amended to read as follows:

10 USC 6027.

“§ 6027. Medical Department: composition

“The Medical Corps and Dental Corps, and such other staff corps as the Secretary of the Navy may establish under section 5155(b) of this title and designate to be in the Medical Department of the Navy, are in the Medical Department of the Navy.”

PART G—AMENDMENTS RELATING TO RETIRED OFFICERS

RIGHT OF RETIRED OFFICERS TO COMMAND

Repeal.

SEC. 361. (a) Section 5955, relating to the withdrawal of retired officers from command, is repealed.

Repeal.

(b) Section 5982, relating to the detail of retired officers to command of ships and squadrons, is repealed.

**RECALL AND RETIRED PAY OF RETIRED OFFICERS OF THE REGULAR NAVY
AND REGULAR MARINE CORPS**

- SEC. 362.** (a) Section 6481, relating to authority to recall retired officers of the Regular Navy and Regular Marine Corps, is repealed. Repeal.
10 USC 6481.
- (b) Section 6487 of such title, relating to the retired pay of retired rear admirals, is repealed. Repeal.
- (c) Section 6488, relating to grade upon release from active duty of members receiving wartime appointments or promotions, is repealed. Repeal.

GRADE OF RETIRED MEMBERS WHEN ORDERED TO ACTIVE DUTY

- SEC. 363.** Section 6483, relating to the grade of retired members when ordered to active duty, is amended by striking out subsection (a) and striking out the subsection designation "(b)" at the beginning of subsection (b).

PART H—MISCELLANEOUS AMENDMENTS

DEFINITIONS

- SEC. 371.** Section 5001(a), relating to definitions for purposes of subtitle C, is amended by striking out clauses (9) and (10).

**REPEAL OF LIMITATION ON ASSIGNMENT OF REGULAR NAVY OFFICERS
TO SHORE DUTY**

- SEC. 372.** Section 6018, relating to limitations on assignment of Regular Navy officers to shore duty, is repealed.

**REPEAL OF CERTAIN PROVISIONS PROVIDING DIFFERENT TREATMENT OF
WOMEN MEMBERS OF THE NAVY AND MARINE CORPS**

- SEC. 373.** (a) Section 5446(b), relating to the applicability of provisions of law providing for grade distribution of officers on active duty, is amended by striking out clauses (1) and (2) and redesignating clauses (3), (4), (5), and (6) as clauses (1), (2), (3), and (4), respectively.

(b) Section 5452, relating to women line officers on active duty in the Navy and women officers on active duty in the Marine Corps, is repealed.

(c) Section 5581, relating to the original appointment of women in the Naval Reserve in the Medical Corps, Judge Advocate General's Corps, the Dental Corps, and the Medical Service Corps, is repealed.

(d) The text of section 5582, relating to transfers between the line and staff corps, is amended to read as follows:

"(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

"(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense."

(e) Section 5590, relating to original appointments of women officers in the Regular Navy and Regular Marine Corps, is repealed.

(f) Section 6911, relating to enlistment and designation of aviation cadets, is amended by striking out "male" both places it appears.

(g) Section 6294, relating to the termination of enlistment of women in the Regular Navy and Regular Marine Corps, is repealed.

(h) Section 6393, relating to the termination of appointments of Regular Navy and Regular Marine Corps women officers, is repealed.

REPEAL OF AUTHORIZATION FOR APPOINTMENT OF RESERVE NAVAL
AVIATORS AS REGULAR OFFICERS

10 USC 6914.

SEC. 374. Section 6914, relating to the appointment of reserve naval aviators as regular officers, is repealed.

TITLE IV—AMENDMENTS TO TITLE 37, UNITED STATES
CODE—PAY AND ALLOWANCES OF THE UNIFORMED
SERVICES

PART A—PAY FOR OFFICERS OF THE ARMED FORCES

REPEAL OF ASSIGNMENT OF CERTAIN OFFICERS IN THE NAVY AND
MARINE CORPS TO THE PAY GRADE FOR REAR ADMIRALS

SEC. 401. (a) Section 202 of title 37, United States Code, relating to assignment of officers of the Navy and Coast Guard holding certain positions to pay grade of rear admiral of the upper half, is amended—

- (1) by striking out subsections (a) through (d);
 - (2) by redesignating subsection (e) as subsection (a) and striking out “the Navy or” in such subsection;
 - (3) by redesignating subsection (f) as subsection (b); and
 - (4) by striking out subsections (g), (h), (i), (j), (k), and (l).
- (b) The heading of such section is amended to read as follows:

“§ 202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard”.

COMPUTATION OF CREDITABLE SERVICE

SEC. 402. (a) Subsection (a) of section 205 of title 37, United States Code, relating to service creditable for purposes of computing basic pay, is amended—

- (1) by striking out “subsections (b)–(d)” and inserting in lieu thereof “subsections (b) and (c)”;
 - (2) by inserting “and” at the end of clause (6);
 - (3) by striking out clauses (7) and (8) and redesignating clause (9) as clause (7);
 - (4) by striking out “section 1402(b)–(d) and section 1402a(a)–(d)” in the second sentence and inserting in lieu thereof “subsections (b), (c), and (d) of section 1402 and subsections (b), (c), and (d) of section 1402a”; and
 - (5) by striking out “clauses (2)–(9)” in the second sentence and inserting in lieu thereof “clauses (2) through (7)”;
- (b) Subsection (b) of such section is amended by striking out the second sentence thereof.

(c) Subsection (c) of such section is repealed, and subsections (d) and (e) of such section are redesignated as subsections (c) and (d), respectively.

EFFECTIVE DATE FOR PAY AND ALLOWANCES OF COMMISSIONED
OFFICERS RECEIVING PROMOTIONS

Repeal.

SEC. 403. (a) Section 904 of title 37, United States Code, relating to the effective date for pay and allowances for certain promotions of Navy and Marine Corps officers, is repealed.

(b) Section 905 of title 37, United States Code, relating to the effective date for pay and allowances for certain promotions of

Reserve Navy and Marine Corps officers, is amended to read as follows:

“§ 905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances 37 USC 905.

“(a) A reserve officer who is promoted under chapter 549 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade. 10 USC 5891 *et seq.*

“(b) A reserve officer who is promoted under section 5908 of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.”

(c) Chapter 19 of title 37, United States Code, relating to administration of pay and allowances, is amended by adding at the end thereof the following new section:

“§ 1010. Commissioned officers: promotion; effective date for pay and allowances 37 USC 1010.

“An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of the promotion.”

PART B—MISCELLANEOUS AMENDMENTS RELATING TO PAY AND ALLOWANCES

SUBSISTENCE ALLOWANCE FOR ENLISTED MEMBERS WHILE PERFORMING CERTAIN TRAVEL

SEC. 411. (a) The third sentence of subsection (b) of section 402 of title 37, United States Code, relating to basic allowance for subsistence, is amended to read as follows: “An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty other than field duty or sea duty.”

(b) Subsection (e) of such section is amended by inserting “, including definitions of the terms ‘field duty’ and ‘sea duty’ for purposes of the third sentence of subsection (b) of this section” after “of this section”.

ELIMINATION OF DIFFERENCES OF TREATMENT IN PROVISION OF INITIAL UNIFORM ALLOWANCE TO OFFICERS

SEC. 412. Section 415 of title 37, United States Code, relating to the initial allowance of officers for purchase of uniforms, is amended—

(1) by striking out “a reserve” in the first sentence of subsection (a) and inserting in lieu thereof “an”;

(2) by striking out “, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10” in subsection (a);

(3) by striking out subsections (c) and (e); and

(4) by redesignating subsection (d) as subsection (c).

REIMBURSEMENT OF EXPENSES IN CONNECTION WITH CERTAIN MESS
OPERATIONS

SEC. 413. Chapter 19 of title 37, United States Code, relating to administration of pay and allowances, is amended by adding after section 1010 (as added by section 403) the following new section:

37 USC 1011.

“§ 1011. Mess operation: reimbursement of expenses

“(a) The Secretary of Defense shall, by regulation, establish rates for meals sold at messes to officers, civilians, or enlisted members entitled to a per diem transportation allowance determined under section 404(d)(2) of this title. Such rates shall be established at a level sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, but members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than \$2.50 per day.

“(b) For the purposes of this section, payment for meals at the rates established under this section may be made in cash or, in the case of enlisted members or civilian employees, by deduction from pay. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.”

REPEAL OF PROVISIONS OF TITLE 37, UNITED STATES CODE, SUPERSEDED
BY SECTION 805 OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 414. (a) Sections 302c and 313 of title 37, United States Code, relating to special pay for medical officers of the Public Health Service, are repealed.

(b)(1) Section 311(a) of such title, relating to continuation pay for dentists, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(2) The heading of such section is amended to read as follows:

“§ 311. Special pay: continuation pay for dentists in the armed forces”.

SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

SEC. 415. Section 302 of title 37, United States Code, relating to special pay for medical officers, is amended by adding at the end thereof the following new subsection:

“(h)(1) Any reserve officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer—

“(A) who has served on active duty as a medical officer for not less than one year; and

“(B) is not on active duty under a call or order to active duty for a period of not less than one year;
is entitled to special pay in accordance with this subsection.

“(2) An officer described in paragraph (1) of this subsection is entitled to special pay at the rate of—

“(A) \$100 a month for each month of active duty, if he has not completed two years of active duty; or

“(B) \$350 a month for each month of active duty, if he has completed at least two years of active duty.”

TITLE V—TECHNICAL AND CLERICAL AMENDMENTS

PART A—AMENDMENTS REQUIRED BY THIS ACT

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

SEC. 501. Subtitle A is amended as follows:

10 USC 101.

(1) The table of chapters at the beginning of subtitle A and the table of chapters at the beginning of part II of such subtitle are amended—

(A) by striking out the items relating to chapters 33 and 35 and inserting in lieu thereof the following new items:

| | |
|---|-------|
| “32. Officer Strength and Distribution in Grade..... | 521 |
| “33. Appointments in Regular Components..... | 531 |
| “34. Appointments as Reserve Officers..... | 591 |
| “35. Temporary Appointments in Officer Grades..... | 601 |
| “36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List..... | 611”; |

(B) by inserting after the item relating to chapter 59 the following new item:

| | |
|--|--------|
| “60. Separation of Regular Officers for Substandard Performance of Duty and for Certain Other Reasons..... | 1181”; |
|--|--------|

(C) by striking out “1255” in the item relating to chapter 63 and inserting in lieu thereof “1251”;

(D) by inserting “of Warrant Officers” in the item relating to chapter 65 after “Retirement”; and

(E) by striking out “1371” in the item relating to chapter 69 and inserting in lieu thereof “1370”.

(2) Section 101(22) is amended by striking out “duty on the active list.”

(3) Section 123(a) is amended by striking out “3571,” “5867,” and “8571.” *Post, p. 2920.*

(4) Section 266(a) is amended by striking out “Each” and inserting in lieu thereof “Except as provided in section 612(a)(3) of this title, each”.

(5) Section 280 is amended by striking out “35” both places it appears and inserting in lieu thereof “34”. *Post, p. 2920.*

(6) Section 564(a)(3) is amended—

(A) by inserting “(1)” after “with”; and

(B) by striking out “1167 of this title” and inserting in lieu thereof “286a of title 14, or (2) separation pay computed under section 1174 of this title, as appropriate”.

(7) Section 593(a) is amended by striking out “section 3352 or 8352” in the second sentence and inserting in lieu thereof “section 624, 3352, or 8352”.

(8) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 687; and

(B) by adding at the end thereof the following new items:

“688. Regular components: retired members.

“689. Reserve officers: grade in which ordered to active duty.”

(9)(A) Chapter 41 is amended by adding at the end thereof the following new section:

“§ 720. Chief of Staff to President: appointment

“The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army, Air Force, or Marine

Corps or a flag officer of the Navy as the Chief of Staff to the President and may designate such position as a position of importance and responsibility under section 601 of this title.”

Ante, p. 2849.

(B) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“720. Chief of Staff to President: appointment.”

(10) The table of sections at the beginning of chapter 43 is amended—

(A) by striking out the item relating to section 741 and inserting in lieu thereof:

“741. Rank: commissioned officers of the Army, Navy, Air Force, and Marine Corps.”;

and

(B) by adding at the end thereof the following new item:

“750. Command: retired officers.”

10 USC 743.

(11) Section 743 is amended by striking out “active list” and inserting in lieu thereof “active-duty list”.

(12) The item relating to section 973 in the table of sections at the beginning of chapter 49 is amended to read as follows:

“973. Duties: officers on active duty; performance of civil functions restricted.”

(13) Section 1079(d) is amended by striking out “, (C), or (E)” and inserting in lieu thereof “or (D)”.

(14) Section 1086(c) is amended by striking out “1072(2)(F)” in clauses (1) and (2) and inserting in lieu thereof “1072(2)(E)”.

(15) The table of sections at the beginning of chapter 59 is amended—

(A) by striking out the item relating to section 1167; and

(B) by adding after the item relating to section 1173 the following new item:

“1174. Separation pay upon involuntary discharge or release from active duty.”

(16) Section 1208(a)(1) is amended by striking out “or mandatory elimination from the active list” and inserting in lieu thereof “, discharge, or retirement for length of service”.

(17) Section 1211(a)(1) is amended by striking out “active list of his regular component” and inserting in lieu thereof “active-duty list”.

(18) The table of sections at the beginning of chapter 63 is amended by inserting before the item relating to section 1263 the following new item:

“1251. Age 62: regular commissioned officers; exceptions.”

(19) The heading of chapter 65 is amended by inserting “OF WARRANT OFFICERS” after “RETIREMENT”.

(20) The table of sections at the beginning of chapter 69 is amended by inserting before the item relating to section 1371 the following new item:

“1370. Commissioned officers: general rule; exceptions.”

(21) Section 1407(d)(1) is amended by striking out “6381, 6383, 6390, 6394, 6396, 6398, or 6400” and inserting in lieu thereof “or 6383”.

(22) Section 2126(2) is amended by striking out “, other than subsection (a) (7) and (8),”.

AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE

10 USC 3001.

SEC. 502. Subtitle B is amended as follows:

(1) The table of chapters at the beginning of subtitle B and the table of chapters at the beginning of part II of such subtitle are amended by striking out the items relating to chapters 359, 360, and 365.

(2) Section 3034(b) is amended by striking out “and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title”.

(3) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3066.

(4) The table of sections at the beginning of chapter 331 is amended—

(A) by striking out the item relating to section 3202 and inserting in lieu thereof the following:

“3202. Army: strength in grade; general officers.”;

(B) by striking out the item relating to section 3212 and inserting in lieu thereof the following:

“3212. Army Reserve; Army National Guard of the United States: strength in grade; temporary increases.”;

and

(C) by striking out the items relating to sections 3201, 3203, 3204, 3205, 3206, 3207, 3209, 3211, 3213, 3214, 3216, and 3230.

(5) Section 3210 is amended—

(A) by striking out “active list” each place it appears in subsections (a) and (b) and inserting in lieu thereof “active-duty list”;

(B) by striking out the second sentence of subsection (a);

(C) by striking out clauses (1), (2), (3), and (4) of subsection (b) and inserting in lieu thereof the following:

“(1) each corps of the Army Medical Department; and

“(2) the Chaplains;”;

(D) by striking out subsections (d) and (e).

(6)(A) The first sentence of section 3212 is amended to read as follows: “The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 3365(a), or 3366 of this title.”

(B) The heading of such section is amended to read as follows:

“§ 3212. Army Reserve; Army National Guard of the United States: strength in grade; temporary increases”.

(7) Sections 3222 and 3225 are each amended—

(A) by striking out “of 837,000”; and

(B) by striking out “in section 3201(a) of this title”.

(8) The table of sections at the beginning of chapter 335 is amended by striking out the items relating to sections 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3302, 3303, 3305, 3306, 3307, 3308, 3309, 3312, 3313, and 3314.

(9) The table of sections at the beginning of chapter 337 is amended—

(A) by striking out the item relating to section 3353 and inserting in lieu thereof the following:

“3353. Commissioned officers: service credit upon original appointment.”;

and

(B) by adding at the end thereof the following new item:

“3396. Exclusion of certain officers.”.

10 USC 3360.

(10) Section 3360(b)(1) is amended by striking out "on the active list" and inserting in lieu thereof "as a regular officer on the active list or on the active-duty list".

(11) The table of sections at the beginning of chapter 339 is amended by striking out the items relating to sections 3441, 3442, 3444, 3445, 3447, 3448, 3449, 3451, and 3452.

(12) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3494 and 3504.

(13) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3531, 3532, and 3535.

(14) The table of sections at the beginning of chapter 345 is amended by striking out the items relating to sections 3571, 3573, 3574, and 3582.

(15) The table of sections at the beginning of chapter 361 is amended by striking out the items relating to sections 3814 and 3818.

(16) The table of sections at the beginning of chapter 367 is amended by striking out the items relating to sections 3913, 3916, 3919, 3921, 3923, and 3927.

(17) Section 3924(a) is amended by striking out "3786" and inserting in lieu thereof "1186".

(18) The text of section 3961 is amended to read as follows:

"(a) The retired grade of a regular commissioned officer of the Army who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Army who retires other than for physical disability or for nonregular service under chapter 67 of this title, is determined under section 1370 of this title.

"(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement."

(19) Section 3962 is amended—

(A) by striking out "(4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title, or (5)" in subsection (a) and inserting in lieu thereof "or (4)";

(B) by striking out subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(20) Section 3963 is amended by striking out subsection (a) and by striking out "(b)" before "Upon retirement".

(21) The table contained in section 3991 is amended—

(A) by striking out the designation "A" under the column headed "Formula";

(B) by striking out the matter opposite such designation under each of the other columns in the table; and

(C) by redesignating the designations "B", "C", and "D" under the column headed "Formula" as "A", "B", and "C", respectively.

(22) Footnote numbered 1 to the table contained in section 3991 is amended by striking out "3962(c)" and inserting in lieu thereof "3962(b)".

(23) Section 4301(b) is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active-duty list".

(24) Section 4333(d) is amended—

10 USC 1331 *et seq.*
Ante, p. 2876.

Post, p. 2929.

(A) by striking out “regular or temporary” in the first sentence; and

(B) by striking out “applicable promotion list” in the second sentence and inserting in lieu thereof “active-duty list”.

(25) Section 4336 is amended—

(A) by striking out “a promotion-list officer” in subsections (a) and (b) and inserting in lieu thereof “a regular officer”; and

(B) by inserting “or active-duty list” in subsections (a) and (b) after “on the promotion list”.

(26) Section 4353 is amended by inserting “under section 531 of this title” after “Regular Army”.

10 USC 4336.

AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE

SEC. 503. Subtitle C is amended as follows:

(1) The table of chapters at the beginning of subtitle C is amended—

(A) by striking out the item relating to chapter 517;

(B) by striking out the item relating to chapter 531 and inserting in lieu thereof the following:

“531. Strength of Naval Reserve and Marine Corps Reserve 5401”; and

(C) by striking out the items relating to chapters 541, 543, 545, and 547 and inserting in lieu thereof the following:

“541. Running Mates for Reserve Officers 5651

“544. Temporary Appointments 5721”.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 517.

(3) Sections 5064(a) and 5081(a) are amended by striking out “active list” and inserting in lieu thereof “active-duty list”.

(4) Section 5085 is amended—

(A) by striking out “active list” in subsection (a) and inserting in lieu thereof “active-duty list”; and

(B) by striking out subsection (d).

(5) Section 5086 is amended—

(A) by striking out “active list” in subsection (a) and inserting in lieu thereof “active-duty list”; and

(B) by striking out subsection (c).

(6) Section 5087(a) is amended by striking out “active list” both places it appears and inserting in lieu thereof “active-duty list”.

(7) Section 5088 is amended—

(A) by striking out “active list” in subsection (a) and inserting in lieu thereof “active-duty list”; and

(B) by striking out subsection (d).

(8) The table of sections at the beginning of chapter 513 is amended—

(A) by striking out the items relating to sections 5139, 5140, and 5143; and

(B) by adding at the end thereof the following new item:

“5155. Staff Corps of the Navy.”.

(9) Section 5133(b) is amended—

(A) by striking out the second sentence, and

(B) by inserting “or active-duty list” in the third sentence after “active list”.

10 USC 5137.

(10) Section 5137 is amended by striking out "active list" in the first sentence of subsection (a) and in subsection (b) and inserting in lieu thereof "active-duty list".

(11) Subsections (a) and (b) of section 5141 are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(12) Subsections (b) and (d) of section 5150 are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(13) Section 5149 is amended—

(A) by striking out "(upper half)" in the second sentence of subsection (a);

(B) by striking out "rear admiral (lower half)" in the second and third sentences of subsection (b) and inserting in lieu thereof "commodore admiral"; and

(C) by striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "If he is retired as a commodore admiral, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law."

(14) The table of sections at the beginning of chapter 515 is amended by striking out the item relating to section 5206.

(15) Sections 5201(a) and 5202(a) are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(16) The table of chapters at the beginning of part II of subtitle C is amended—

(A) by striking out the item relating to chapter 531 and inserting in lieu thereof the following:

"531. Strength of Naval Reserve and Marine Corps Reserve 5401";
and

(B) by striking out the items relating to chapters 541, 543, 545, and 547 and inserting in lieu thereof the following:

"541. Running Mates for Reserve Officers 5651
"544. Temporary Appointments..... 5721".

(17) The table of sections at the beginning of chapter 531 is amended by striking out the items relating to sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, 5416, and 5417.

(18) The table of sections at the beginning of chapter 533 is amended—

(A) by striking out the items relating to sections 5442, 5443, and 5444 and inserting in lieu thereof the following:

"5442. Navy: line officers on active duty; commodore admirals and rear admirals.
"5443. Marine Corps: officers on active duty; brigadier generals and major generals.
"5444. Navy: staff corps officers on active duty; commodore admirals and rear admirals."; and

(B) by striking out the items relating to sections 5445, 5447, 5448, 5449, and 5452.

(19) Section 5444(d) is amended by striking out "section 5772 or section 5781" and inserting in lieu thereof "section 624 of this title".

(20) Section 5446 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(21) Section 5450 is amended—

(A) by striking out "(a)";

Ante, p. 2888.

(B) by striking out "officers of the Regular Navy in the grade of rear admiral and above" and inserting in lieu thereof "flag officers of the Regular Navy"; and

(C) by striking out subsection (b).

(22) Section 5451(b) is amended by striking out "relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps".

10 USC 5451.

(23) Section 5455 is amended by striking out "5449, or 5452" and inserting in lieu thereof "or 5449".

(24) Section 5455 is further amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(25) The table of sections at the beginning of chapter 535 is amended by striking out the items relating to sections 5504 and 5505.

(26) Section 5506 is amended—

(A) by striking out "Officers" in the first sentence and inserting in lieu thereof "Subject to section 741 of this title, officers"; and

(B) by striking out "When" in the second sentence and inserting in lieu thereof "Subject to section 741 of this title, when".

(27) Section 5508 is amended—

(A) in subsection (a)—

(i) by striking out "(a)";

(ii) by striking out "a lineal" in the first sentence and inserting in lieu thereof "an active-duty"; and

(iii) by striking out the second sentence; and

(B) by striking out subsection (b).

(28) The table of sections at the beginning of chapter 539 is amended by striking out the items relating to sections 5571, 5572, 5573, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5581, 5583, 5584, 5586, 5590, 5591, 5592, 5593, 5594, 5595, 5597, 5598, 5599, and 5601.

(29) Section 5585 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(30) The text of section 5587a is amended to read as follows: "With the approval of the Secretary of the Navy, any regular officer on the active-duty list of the Marine Corps who is qualified under section 827(b) of this title may, upon his application, be designated as a judge advocate."

(31) The table of sections at the beginning of chapter 541 is amended by striking out the items relating to sections 5651, 5652, 5652a, 5652b, 5652c, 5653, 5654, 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, and 5666.

(32) Section 5891 is amended—

(A) by striking out "(c), (d), and (e), a reserve officer who is on the lineal list maintained under section 5504" in subsection (b) and inserting in lieu thereof "(c) and (d), a reserve officer who is on the active-duty list maintained under section 620";

(B) by striking out subsections (c) and (g) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(C) by striking out "chapter 543" in subsections (d) and (e), as redesignated by clause (2), and inserting in lieu thereof "chapter 36"; and

(D) by striking out "the lineal list" and "a lineal list" each place they appear in subsections (d) and (e), as redesignated

10 USC 5892.

by clause (2), and inserting in lieu thereof "the active-duty list".

(33) Section 5892 is amended by striking out "prescribed for line and staff corps officers on the active list of the Navy" in the fourth sentence and inserting in lieu thereof "established by the Secretary for regular line and staff corps officers on the active-duty list under other provisions of this title".

(34) Sections 5896, 5897, and 5898(b) are each amended by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" each place it appears.

(35) Section 5899 is amended—

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" each place it appears;

(B) by striking out "section 5764" in subsections (a) and (c) and inserting in lieu thereof "chapter 36";

(C) by inserting "or above" after "captain" in the second sentence of subsection (a);

(D) by striking out "section 5765" in subsections (b) and (d) and inserting in lieu thereof "chapter 36";

(E) by striking out "lineal list" in subsections (b) and (e) and inserting in lieu thereof "active-duty list";

(F) by striking out "section 5702" in subsection (e) and inserting in lieu thereof "chapter 36"; and

(G) by striking out "chapter 543" in subsection (f) and inserting in lieu thereof "chapter 36".

(36) Section 5901 is amended by striking out subsection (c).

(37) Subsections (b) and (c) of section 5902 are amended by striking out "chapter 545" and inserting in lieu thereof "chapter 36".

(38) Section 5905(c) is amended by striking out "lineal rank and" in the second sentence.

(39) Section 5906 is amended by striking out "chapter 543" and inserting in lieu thereof "chapter 36".

(40) The second sentence of subsection (a) of section 5910 and the second sentence of subsection (b) of such section are amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(41) The table of sections at the beginning of chapter 551 is amended by striking out the item relating to section 5955.

(42) The table of sections at the beginning of chapter 553 is amended by striking out the item relating to section 5982.

(43) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6018 and 6028.

(44) Section 6015 is amended by striking out "appointed under section 5590 of this title".

(45) Section 6151(a) is amended by inserting "and subject to sections 688 and 1370 of this title" after "retired grade".

(46) The table of sections at the beginning of chapter 569 is amended by striking out the item relating to section 6294.

(47)(A) Section 6323(c) is amended to read as follows:

"(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title."

(B) Section 6325 is amended—

(i) by inserting "or section 1370 of this title" in subsection (a) after "subsection (b)"; and

(ii) by striking out "5231 or 5232" in subsection (b) and inserting in lieu thereof "601".

(48) The table of sections at the beginning of chapter 573 is amended—

(A) by striking out the items relating to sections 6371, 6372, 6373, 6374, 6376, 6377, 6378, 6379, 6380, 6381, 6382, 6384, 6385, 6386, 6387, 6388, 6390, 6392, 6393, 6394, 6395, 6396, 6398, 6400, 6401, 6402, and 6407;

(B) by striking out the item relating to section 6383 and inserting in lieu thereof the following:

"6383. Regular Navy and Regular Marine Corps; officers designated for limited duty; retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay.";

and

(C) by striking out the item relating to section 6404 and inserting in lieu thereof the following:

"6404. Treatment of fractions of years of service in computing retired pay and separation pay."

(49) Section 6403 is amended—

10 USC 6403.

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" in subsection (a);

(B) by inserting "or chapter 36" after "this chapter" in subsections (a) and (b);

(C) by inserting "regular" after "woman line" in subsection (a); and

(D) by striking out "active list" in subsections (a) and (b) and inserting in lieu thereof "active-duty list".

(50)(A) Section 6404 is amended by striking out "lump-sum payments" and inserting in lieu thereof "separation pay".

(B) The heading of such section is amended to read as follows:

"§ 6404. Treatment of fractions of years of service in computing retired pay and separation pay".

(51) The table of sections at the beginning of chapter 575 is amended by striking out the items relating to sections 6481, 6487, and 6488.

(52) The table of sections at the beginning of chapter 601 is amended by striking out the items relating to sections 6909 and 6914.

(53) Section 7042(a) is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE

SEC. 504. Subtitle D is amended as follows:

(1) The table of chapters at the beginning of subtitle D and the table of chapters at the beginning of part II of such subtitle are amended by striking out the items relating to chapters 859, 860, and 865.

(2) Section 8034(b) is amended by striking out "and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 8066 of this title".

(3) The table of sections at the beginning of chapter 807 is amended by striking out the item relating to section 8066.

10 USC 8062.

(4) Section 8062(e) is amended by striking out "and chapter 831" and inserting in lieu thereof "chapter 831 of this title, and the strength authorized by law pursuant to section 138".

(5) Section 8067 is amended—

(A) by striking out "in conformity with section 8289 or 8294 of this title," in subsection (a);

(B) by striking out "in conformity with section 8294 of this title," in subsection (b);

(C) by striking out "in conformity with section 8291 of this title," in subsection (e);

(D) in subsection (f)—

(i) by striking out "Medical specialist functions" and inserting in lieu thereof "Biomedical science functions"; and

(ii) by striking out "medical specialists" and inserting in lieu thereof "biomedical science officers"; and

(E) by striking out "in conformity with section 8293 of this title," in subsection (h).

(6) The table of sections at the beginning of chapter 831 is amended—

(A) by striking out the item relating to section 8202 and inserting in lieu thereof the following:

"8202. Air Force: strength in grade.";

(B) by striking out the item relating to section 8212 and inserting in lieu thereof the following:

"8212. Air Reserve; Air National Guard of the United States: strength in grade; temporary increases.";

and

(C) by striking out the items relating to sections 8201, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8211, 8213, 8214, 8215, and 8230.

(7) Section 8210 is amended by striking out "active list" each place it appears in subsections (a) and (c) and inserting in lieu thereof "active-duty list".

(8)(A) The first sentence of section 8212 is amended to read as follows: "The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 8365 (a) and (c), 8366 (a) and (d), 8375, 8376, 8380, or 8381 of this title."

(B) The heading of such section is amended to read as follows:

"§ 8212. Air Reserve; Air National Guard of the United States: strength in grade; temporary increases".

(9) Sections 8222 and 8225 are each amended—

(A) by striking out "of 502,000"; and

(B) by striking out "in section 8201(a) of this title".

(10) The table of sections at the beginning of chapter 835 is amended by striking out the items relating to sections 8284, 8285, 8286, 8287, 8288, 8289, 8293, 8294, 8295, 8296, 8297, 8298, 8299, 8300, 8301, 8302, 8303, 8305, 8306, 8307, 8308, 8309, 8312, 8313, and 8314.

(11) The table of sections at the beginning of chapter 837 is amended—

(A) by striking out the item relating to section 8353 and inserting in lieu thereof the following:

"8353. Commissioned officers: service credit upon original appointment.";

and

(B) by adding at the end thereof the following new item:

“8396. Exclusion of certain officers.”.

(12) The table of sections at the beginning of chapter 839 is amended by striking out the items relating to sections 8441, 8442, 8444, 8445, 8447, 8448, 8449, 8451, and 8452.

(13) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8494 and 8504.

(14) The table of sections at the beginning of chapter 843 is amended by striking out the item relating to section 8531.

(15) The table of sections at the beginning of chapter 845 is amended by striking out the items relating to sections 8571, 8573, 8574, and 8582.

(16) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8814 and 8818.

(17) The table of sections at the beginning of chapter 867 is amended by striking out the items relating to sections 8913, 8915, 8916, 8919, 8921, 8922, 8923, and 8927.

(18) Section 8924(a) is amended by striking out “8786” and inserting in lieu thereof “1186”.

10 USC 8924.

(19) The text of section 8961 is amended to read as follows:

“(a) The retired grade of a regular commissioned officer of the Air Force who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Air Force who retires other than for physical disability or for nonregular service under chapter 67 of this title, is determined under section 1370 of this title.

10 USC 1331 et
seq.
Ante, p. 2876.

“(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Air Force not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.”.

(20) Section 8962(a) is amended by striking out “(4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title, or (5)” and inserting in lieu thereof “or (4)”.

Ante, p. 2878.

(21) Section 8963 is amended by striking out subsection (a) and by striking out “(b)” before “Upon retirement”.

(22) The table contained in section 8991 is amended—

Post, p. 2935.

(A) by striking out the designation “A” under the column headed “Formula”;

(B) by striking out the matter opposite such designation under each of the other columns in the table; and

(C) by redesignating the designations “B”, “C”, and “D” under the column headed “Formula” as “A”, “B”, and “C”, respectively.

(23) Section 9301(b) is amended by striking out “active list” in the first sentence and inserting in lieu thereof “active-duty list”.

(24) Section 9336 is amended—

(A) by striking out “a promotion-list officer” in subsections (a) and (b) and inserting in lieu thereof “a regular officer”; and

(B) by inserting “or active-duty list” in subsections (a) and (b) after “on the promotion list”.

(25) Section 9353 is amended by inserting “under section 531 of this title” after “Regular Air Force”.

Ante, p. 2845.

AMENDMENTS TO TITLE 14, UNITED STATES CODE

SEC. 505. (a)(1) Chapter 11 of title 14, United States Code, is amended by inserting after section 286 the following new section:

14 USC 286a. **"§ 286a. Regular warrant officers: severance pay**

Ante, p. 2907. "(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 564(a)(3) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

10 USC 564 note.

"(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation.

"(c) For the purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

Retirement pay deductions.

"(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay. However, no person is entitled to severance pay under this section in an amount that is more than \$15,000."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 286 the following new item:

"286a. Regular warrant officers: severance pay."

(b) Section 438 of title 14, United States Code, is amended by striking out "1167, 1255" and inserting in lieu thereof "1166".

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 506. Title 37, United States Code, is amended as follows:

37 USC 101.

(1) Section 101(18) is amended by striking out "duty on the active list,".

(2) The item relating to section 202 in the table of sections at the beginning of chapter 3 is amended to read as follows: "202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard."

(3) The table contained in section 201(a) is amended—

(A) by striking out "Environmental Science Services Administration" in the heading of the third column and inserting in lieu thereof "National Oceanic and Atmospheric Administration";

(B) by striking out "Rear admiral (upper half)" in the third column and inserting in lieu thereof "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard and National Oceanic and Atmospheric Administration)"; and

(C) by striking out "Rear admiral (lower half) and commodore" in the third column and inserting in lieu thereof "Commodore admiral (Navy) and Rear admiral (lower half)

and commodore (Coast Guard and National Oceanic and Atmospheric Administration)".

(4) Section 204(a) is amended by striking out "Except for members covered by section 202(i) of this title, the" and inserting in lieu thereof "The". 37 USC 204.

(5) The table of sections at the beginning of chapter 5 is amended—

(A) by striking out the items relating to sections 302c and 313; and

(B) by striking out the item relating to section 311 and inserting in lieu thereof the following:

"311. Special pay: continuation pay for dentists in the armed forces."

(6) Section 303a is amended—

(A) by striking out "302c, 303, 311, and 313" in subsection (a) and inserting in lieu thereof "303, and 311";

(B) by striking out "302c," in the first sentence of subsection (b); and

(C) by inserting "separation pay," after "retired pay," in the second sentence of subsection (b).

(7) Section 406 is amended—

(A) by inserting "separation pay or" before "severance pay" in subsections (d)(2) and (g)(2); and

(B) by inserting "separation pay or" before "readjustment pay" in subsections (d)(2) and (g)(2).

(8) The table of sections at the beginning of chapter 17 is amended by striking out the items relating to sections 904 and 905 and inserting in lieu thereof the following:

"905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances."

(9) The table of sections at the beginning of chapter 19 is amended by adding at the end thereof the following new items:

"1010. Commissioned officers: promotions; effective date for pay and allowances.

"1011. Mess operations: reimbursement of expenses."

AMENDMENTS TO OTHER LAWS

SEC. 507. (a) Section 101(12) of title 32, United States Code, is amended by striking out "duty on the active list,".

(b) Section 502(a) of the National Emergencies Act (50 U.S.C. 1651(a)(8)) is amended by striking out paragraph (8).

(c) Section 6(d) of the Act entitled "An Act to establish an Office of Selective Service Records to liquidate the Selective Service System following the termination of its functions on March 31, 1947, and to preserve and service the Selective Service records, and for other purposes", approved March 31, 1947 (50 U.S.C. App. 326(d)), is amended—

(1) by striking out "on the active or retired list of the Army, Navy, Marine Corps, or Coast Guard, or of any Reserve component thereof," and inserting in lieu thereof "of the Armed Forces" and

(2) by striking out "in the Army, Navy, Marine Corps, or Coast Guard or Reserve component thereof," and inserting in lieu thereof "of the Armed Forces".

(d) Section 10(b)(4) of the Military Selective Service Act (50 U.S.C. App. 460(b)(4)) is amended—

Repeal.

- (1) by striking out "on the active or retired list of the armed forces, or any reserve component thereof with his consent," and inserting in lieu thereof "of the armed forces" and
- (2) by striking out "or reserve component thereof,".
- (e) Section 302 of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93-155; 87 Stat. 607) is repealed.
- (f)(1) Section 3(a)(3) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)(3)), is amended by inserting "1370," after "except sections".
- (2) Section 221(a)(3) of the Public Health Service Act (42 U.S.C. 213a(a)(3)) is amended by inserting "1370," after "except sections".

PART B—AMENDMENTS TO MAKE TECHNICAL CORRECTIONS IN TITLES 10, 32, AND 37 OF THE UNITED STATES CODE OTHER THAN CORRECTIONS REQUIRED BY THIS ACT

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

10 USC 123.

SEC. 511. Subtitle A is amended as follows:

- (1) Section 123 is amended by striking out "3847," "8370," and "8847,".
- (2) Section 126(b) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".
- (3) Section 133(b) is amended by striking out "section 401 of title 50" and inserting in lieu thereof "section 2 of the National Security Act of 1947 (50 U.S.C. 401)".
- (4) Section 138(f) is amended—
- (A) by striking out "(71 Stat. 556)" and inserting in lieu thereof "(42 U.S.C. 1594i)"; and
- (B) by striking out "In subsection (f)" and inserting in lieu thereof "In subsection (e)".
- (5) Section 139(a) is amended by striking out "section 11 of title 31" and inserting in lieu thereof "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)".
- (6) Section 176 is amended—
- (A) in subsection (a)(3), by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and
- (B) in subsection (b)(1)(A), by inserting "of this title" after "section 177".
- (7) Section 270 is amended—
- (A) in subsection (a), by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and
- (B) in subsection (c), by striking out "the enactment of this subsection" and inserting in lieu thereof "October 4, 1961".
- (8) Section 272 is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".
- (9) Section 274(1) is amended by striking out "section 232" and inserting in lieu thereof "section 291".
- (10) Section 280 is amended—
- (A) by striking out "3685," and "8685,"; and
- (B) by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".
- (11)(A) Section 335 is amended to read as follows:

“§ 335. Guam and Virgin Islands included as ‘State’

“For purposes of this chapter, the term ‘State’ includes the unincorporated territories of Guam and the Virgin Islands.”

(B) Section 336 is repealed.

Repeal.
10 USC 336.

(C) The table of sections at the beginning of chapter 15 is amended by adding after the item relating to section 334 the following new item:

“335. Guam and Virgin Islands included as ‘State’.”

(12) Section 351(c) is amended by striking out “Section 463 of title 22” and inserting in lieu thereof “Section 16 of the Act of March 4, 1909 (22 U.S.C. 463)”.

(13) Section 510(b)(1) is amended by striking out “chapter 12 of title 8” and inserting in lieu thereof “the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)”.

(14) Section 511(d) is amended by striking out “Military Selective Service Act of 1967 (50 App. U.S.C. 451-473)” and inserting in lieu thereof “Military Selective Service Act (50 U.S.C. App. 451 et seq.)”.

(15) Section 512 is amended by striking out “sections 451-473 of title 50, appendix” both places it appears and inserting in lieu thereof “the Military Selective Service Act (50 U.S.C. App. 451 et seq.)”.

(16) Section 591(b) is amended—

(A) by striking out “except as provided in section 454(i)(7) of title 50, appendix,”; and

(B) by striking out “chapter 12 of title 8” and inserting in lieu thereof “the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)”.

(17) Section 595(a) is amended by striking out “sections 451-473 of title 50, appendix” both places it appears and inserting in lieu thereof “the Military Selective Service Act (50 U.S.C. App. 451 et seq.)”.

(18) Section 651(a) is amended—

(A) by striking out “section 456(d)(1) of title 50, appendix” and inserting in lieu thereof “section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); and

(B) by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(19) Section 679(c) is amended by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(20) Section 702(b) is amended by striking out “Sections 701, 702(a), 703, and 704 of this chapter” and inserting in lieu thereof “Sections 701, 703, and 704 of this title and subsection (a)”.

(21) Section 711a is amended by striking out “(a)”.

(22) Section 717 is amended—

(A) by striking out “the Treasury” each place it appears and inserting in lieu thereof “Transportation”;

(B) by striking out “subsections (d), (e), and (f)” in subsection (c) and inserting in lieu thereof “subsections (c), (d), and (e)”; and

(C) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(23)(A) Section 719 is amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(B) The heading of such section is amended to read as follows:

“§719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration”.

(C) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

“719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration.”.

10 USC 802.

(24) Section 802(a)(8) is amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(25) Sections 865(c) and 888 are amended by striking out “the Treasury” and inserting in lieu thereof “Transportation”.

(26) The table of sections at the beginning of chapter 48 is amended by adding at the end thereof the following new item:

“955. Prisoners transferred to or from foreign countries.”.

(27) Section 951(d) is amended by striking out “as” the second place it appears and inserting in lieu thereof “at”.

(28) Section 955(a) is amended—

(A) by striking out “said” both places it appears and inserting in lieu thereof “such”;

(B) by striking out “Said” and inserting in lieu thereof “Such”; and

(C) by striking out “, United States Code”.

(29) The items relating to chapter 51 in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part II of such subtitle, are amended to read as follows:

“51. Reserve Components: Standards and Procedures for Retention and Promotion 1001”.

(30) Section 1006(e) is amended by striking out “the Act enacting this section” and inserting in lieu thereof “Public Law 85-861”.

(31) Section 1037(c) is amended by striking out “Department of the Treasury” and inserting in lieu thereof “Department of Transportation”.

(32) Subsection (d) of the first section 1040 is amended—

(A) by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”; and

(B) by striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”.

(33)(A) The second section 1040 (added by Public Law 90-235) is redesignated as section 1041.

(B) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

“1041. Replacement of certificate of discharge.”.

(34)(A) Sections 1071, 1072, 1073, and 1084 are amended by striking out “sections 1071-1087 of this title” and inserting in lieu thereof “this chapter”.

(B) The heading of section 1071 is amended to read as follows:

“§1071. Purpose of this chapter”.

(C)(i) The heading of section 1073 is amended to read as follows:

“§ 1073. Administration of this chapter”.

(ii) Such section is further amended by striking out “those sections” and “them” and inserting in lieu thereof “this chapter”.

(D)(i) The item relating to section 1071 in the table of sections at the beginning of chapter 55 is amended to read as follows:

“1071. Purpose of this chapter.”.

(ii) The item relating to section 1073 in such table is amended to read as follows:

“1073. Administration of this chapter.”.

(iii) The item relating to section 1086 in such table is amended to read as follows:

“1086. Contracts for health benefits for certain members, former members, and their dependents.”.

(35) Section 1072(1) and 1073 are amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

10 USC 1072,
1073.

(36) Sections 1072(2)(E)(iii), 1073, 1074, 1076, 1078, 1079, 1080, 1081, 1083, 1084, 1085, and 1086 are amended by striking out “Secretary of Health, Education, and Welfare” each place it appears and inserting in lieu thereof “Secretary of Health and Human Services”.

(37) Sections 1074(b) and 1085 are amended by striking out “Bureau of the Budget” and inserting in lieu thereof “President”.

(38) Section 1079 is amended—

(A) in subsection (a), by striking out “that:” and inserting in lieu thereof “that—”;

(B) in subsection (b), by striking out “per centum” both places it appears and inserting in lieu thereof “percent”;

(C) in subsection (e), by striking out the period in the matter preceding clause (1) and inserting in lieu thereof “as follows:”; and

(D) in subsection (g), by striking out “, United States Code,”.

(39) Section 1086 is amended—

(A) in subsection (b), by striking out “per centum” each place it appears and inserting in lieu thereof “percent”; and

(B) in subsection (c), by striking out “title I of the Social Security Amendments of 1965 (79 Stat. 286)” and inserting in lieu thereof “part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)”.

Ante, p. 2908.

(40) Section 1124(h) is amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(41) Section 1164 is amended by redesignating subsection (c) as subsection (b).

(42) Section 1208(a) is amended—

(A) by striking out “Environmental Science Services Administration” in paragraph (2)(B) and inserting in lieu thereof “National Oceanic and Atmospheric Administration”; and

(B) by striking out “Environmental Science Services Administration includes active service as a member” and inserting in lieu thereof “National Oceanic and Atmospheric

10 USC 1212.

Administration includes active service as a member of the Environmental Science Services Administration and”.

(43) Section 1212(a)(2)(B) is amended by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(44) Section 1213 is amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(45) Section 1216(d) is amended by striking out “Assistant Secretary of Defense for Health and Environment” and inserting in lieu thereof “Assistant Secretary of Defense for Health Affairs”.

(46) Section 1263(a) is amended by striking out “section 311 of title 37” and inserting in lieu thereof “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114; 10 U.S.C. 564 note)”.

(47) Section 1331 is amended—

(A) in subsection (b), by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”; and

(B) in subsection (e), by striking out “United States Code.”.

(48) Section 1332(a)(4) is amended—

(A) by striking out “Coast and Geodetic Survey” and inserting in lieu thereof “National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey)”;

(B) by striking out “pursuant to” and inserting in lieu thereof “under”.

(49) Section 1401 is amended—

(A) by striking out “of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981” in the heading in column 1 of the table contained in such section and inserting in lieu thereof “) after September 7, 1980”;

(B) by striking out “1255” under the column headed “For sections” in such table; and

(C) by striking out “senior enlisted advisor of the Navy” in footnote 4 of such table and inserting in lieu thereof “master chief petty officer of the Navy”.

(50) Section 1402 is amended by striking out “the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981” in subsections (a), (b), and (c) and inserting in lieu thereof “a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980”.

(51)(A) Section 1402a is amended by striking out “on or after the date of the enactment of the Department of Defense Authorization Act, 1981” in subsections (a), (b), and (c) and inserting in lieu thereof “after September 7, 1980”.

(B) The heading of such section is amended to read as follows:

“§ 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980”.

(C) The item relating to such section in the table of sections at the beginning of chapter 71 is amended to read as follows:

“1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980.”.

Ante, p. 1077.

(52)(A) Section 1403 is amended by striking out “title 26” and inserting in lieu thereof “the Internal Revenue Code of 1954”. 10 USC 1403.

(B) The heading of such section is amended to read as follows:

“§ 1403. Disability retired pay; treatment under Internal Revenue Code of 1954”.

(C) The item relating to such section in the table of sections at the beginning of chapter 71 is amended to read as follows:

“1403. Disability retired pay; treatment under Internal Revenue Code of 1954.”.

(53) Section 1407(a) is amended by striking out “on or after the date of the enactment of the Department of Defense Authorization Act, 1981” and inserting in lieu thereof “after September 7, 1980”. *Ante*, p. 1077.

(54)(A) The heading of chapter 73 is amended to read as follows:

“CHAPTER 73—ANNUITIES BASED ON RETIRED OR RETAINER PAY”.

(B) The items relating to such chapter in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part II of such subtitle, are amended to read as follows:

“73. Annuities Based on Retired or Retainer Pay 1431”.

(55) Section 1431(b) is amended by striking out “the date of enactment of this amendment” and inserting in lieu thereof “August 13, 1968”.

(56) Section 1434 is amended by striking out “per centum” each place it appears and inserting in lieu thereof “percent”.

(57) Section 1437(b) is amended by striking out “prior to the effective date of this subsection” and inserting in lieu thereof “before November 1, 1968”.

(58) Section 1444 is amended—

(A) by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”; and

(B) by redesignating subsection (c) as subsection (b).

(59) Section 1475(a)(5)(B) is amended by striking out “Universal Military Training and Service Act (50 App. U.S.C. 451 et seq.)” and inserting in lieu thereof “Military Selective Service Act (50 U.S.C. App. 451 et seq.)”.

(60) Section 1552(a) is amended by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(61) Section 1586 is amended by striking out “United States Civil Service Commission” in subsections (c)(5) and (e)(2) and inserting in lieu thereof “Office of Personnel Management”.

(62) Section 2107 is amended—

(A) by striking out “Military” in subsection (e) and inserting in lieu thereof “Military”; and

(B) by striking out “section 2107 of this title” in subsection (h) and inserting in lieu thereof “this section”.

(63) Section 2112(a) is amended by striking out “10 years after the date of the enactment of this chapter” and inserting in lieu thereof “September 21, 1982”.

Ante, p. 2925.
10 USC 2112,
2113.

(64) Sections 2112(a), 2113(a), and 2113(d) are amended by inserting "in this chapter" after "hereinafter".

(65) Section 2114(b) is amended by striking out "Secretary of Health, Education, and Welfare" both places it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(66) The table of sections at the beginning of chapter 105 is amended by striking out the first semicolon in the item relating to section 2123 and the semicolons in the items relating to sections 2124, 2125, 2126, and 2127 and inserting in lieu thereof colons.

(67) Sections 2123(e) and 2127(d) are amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(68) Section 2131 is amended—

(A) by striking out "armed force" in subsection (a) and inserting in lieu thereof "armed forces";

(B) by inserting "of this title" in subsection (b)(2) after "section 2132"; and

(C) by striking out "Commissioner of Education, Department of Health, Education, and Welfare" in subsection (d) and inserting in lieu thereof "Secretary of Education".

(69) Section 2132 is amended by inserting "of this title" after "section 2131" each place it appears.

(70) Section 2133(a) is amended by inserting "of this title" after "section 2131" and after "section 2107".

(71) Section 2205 is amended by striking out "section 686 of title 31" and inserting in lieu thereof "the Act of March 4, 1915 (31 U.S.C. 686)".

(72) Section 2210(b) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(73) Section 2211 is amended by striking out "section 2392(d) of title 22" and inserting in lieu thereof "section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d))".

(74) Section 2302(1) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(75) The item relating to section 2304 in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2304. Purchases and contracts: formal advertising; exceptions."

(76)(A) Clauses (1) and (2) of section 2304(f) are amended to read as follows:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healy Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a-276a-5)."

(B) Clause (3) of such section is repealed.

(77)(A) Subsection (f) of section 2306 is amended—

(i) by inserting "(1)" after "(f)";

(ii) by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(iii) by striking out "Prior" each place it appears and inserting in lieu thereof "prior";

(iv) by striking out "(3) above" and inserting in lieu thereof "clause (C)";

(v) by inserting "(2)" before "Any prime contract" in the first undesignated paragraph in such subsection; and

(vi) by inserting "(3)" before "For the purpose of" in the second undesignated paragraph in such subsection.

(B) Subsection (g) of such section is amended—

(i) by striking out "that:" in paragraph (1) and inserting in lieu thereof "that—";

(ii) by striking out "the" at the beginning of clause (A) of paragraph (2) and inserting in lieu thereof "The";

(iii) by striking out "consideration" at the beginning of clauses (B) and (C) of paragraph (2) and inserting in lieu thereof "Consideration"; and

(iv) by striking out "from:" in paragraph (3) and inserting in lieu thereof "from—".

(78) Section 2314 is amended by striking out "Sections 5, 6, 6a, and 13 of title 41" and inserting in lieu thereof "Sections 3709 and 3735 of the Revised Statutes (41 U.S.C. 5 and 13)". 10 USC 2314.

(79) The table of sections at the beginning of chapter 141 is amended by striking out the item relating to section 2383.

(80) Section 2390 is amended by striking out "(a)" before "The Secretary".

(81) Section 2543(a) is amended by striking out "section 721 of title 36" and inserting in lieu thereof "the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721)".

(82) Section 2572 is amended by striking out "section 486 of title 40, the Secretary of a military department or the Secretary of the Treasury" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of a military department or the Secretary of Transportation".

(83)(A) Section 2573 is repealed.

Repeal.

(B) The table of sections at the beginning of chapter 153 is amended by striking out the item relating to section 2573.

(84) Section 2575 is amended—

(A) in subsection (a), by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and

(B) in subsection (c), by striking out "the Soldiers' Home" and inserting in lieu thereof "the United States Soldiers' and Airmen's Home".

(85) Section 2576(a) is amended—

(A) by striking out "pursuant to" and inserting in lieu thereof "under"; and

(B) by striking out "(63 Stat. 377), as amended" and inserting in lieu thereof "(40 U.S.C. 471 et seq.)".

(86) Section 2601(b)(4) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(87) Section 2633 is amended by striking out "section 628 of title 31" and inserting in lieu thereof "section 3678 of the Revised Statutes (31 U.S.C. 628)".

10 USC 2635.

(88) Section 2635(a) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

(89) The table of sections at the beginning of chapter 159 is amended by striking out the item relating to section 2680.

(90) Section 2664(a) is amended—

(A) by striking out "the Federal Maritime Board" both places it appears and inserting in lieu thereof "Federal Maritime Commission"; and

(B) by striking out "by 1950 Reorganization Plan No. 21, effective May 24, 1950 (64 Stat. 1273)" and inserting in lieu thereof "under Reorganization Plan No. 7 of 1961, effective August 12, 1961 (75 Stat. 840)".

(91) Section 2665 is amended by striking out "Federal Maritime Board" each place it appears and inserting in lieu thereof "Federal Maritime Commission".

(92) Section 2667 is amended—

(A) by striking out "section 472 of title 40" in subsection (a)(3) and inserting in lieu thereof "section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)";

(B) by striking out "section 303b of title 40" in subsection (b)(4) and inserting in lieu thereof "section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b)";

(C) by striking out "act of Congress" in subsection (e) and inserting in lieu thereof "Act of Congress"; and

(D) in subsection (f)—

(i) by striking out "The Secretary" and inserting in lieu thereof "the Secretary"; and

(ii) by striking out "The Administrator of the General Services Administration" and inserting in lieu thereof "the Administrator of General Services".

(93) Section 2681(a) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(94) Section 2733(f) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(95) Section 2734(g) is amended by striking out "Department of the Treasury" and inserting in lieu thereof "Department of Transportation".

(96) The table of sections at the beginning of chapter 165 is amended by striking out the item relating to section 2772.

(97) Section 2771 is amended—

(A) in subsection (b), by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) in subsection (c), by striking out "Department of the Treasury" and inserting in lieu thereof "Department of Transportation".

(98) Section 2774(a) is amended by striking out "the effective date of this section" and inserting in lieu thereof "October 2, 1972".

(99) The items relating to chapter 107 in the tables of chapters at the beginning of subtitle A, and at the beginning of part III of such subtitle, are each amended to read as follows:

"107. Educational Assistance for Persons Enlisting for Active Duty 2141".

AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE

SEC. 512. Subtitle B is amended as follows:

(1) The items relating to chapter 303 in the table of chapters at the beginning of subtitle B, and in the table of chapters at the beginning of part I of such subtitle, are amended to read as follows:

"303. Department of the Army 3010".

(2) The items relating to sections 3035 and 3036 in the table of sections at the beginning of chapter 305 are amended to read as follows:

"3035. Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff.

"3036. Chiefs of branches: appointment; duties."

(3) Section 3253 is amended by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)". 10 USC 3253.

(4) Section 3360 is amended by striking out "the Act enacting this section" each place it appears and inserting in lieu thereof "Public Law 85-861".

(5)(A) Section 3534 is amended by striking out "Commissioner" and inserting in lieu thereof "Mayor".

(B) The heading of such section is amended to read as follows:

"§ 3534. Corps of Engineers: detail of officers to assist Mayor of District of Columbia".

(C) The item relating to such section in the table of sections at the beginning of chapter 343 is amended to read as follows:

"3534. Corps of Engineers: detail of officers to assist Mayor of District of Columbia."

(6) The table of sections at the beginning of chapter 349 is amended by striking out the items relating to sections 3632, 3633, and 3636.

(7) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3689.

(8) Sections 3848(c)(2) and 3851(c)(2) are amended by striking out ", United States Code,".

(9) Section 3853 is amended by striking out "the Act enacting this section" both places it appears and inserting in lieu thereof "Public Law 85-861".

(10) The tables contained in sections 3991 and 3992 are each amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in the heading for column 1 and inserting in lieu thereof "after September 7, 1980".

Ante, p. 1077.

(11) Section 4314 is amended by striking out "Commissioner of Education, Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

(12) Section 4331(a) is amended by striking out "New York, in this chapter called the 'Academy'" and inserting in lieu thereof "New York (hereinafter in this chapter referred to as the 'Academy')".

10 USC 4342.

(13) Section 4342(h) is amended by striking out "Effective beginning with nominations for appointment to the Academy in the calendar year 1964, the" and inserting in lieu thereof "The".

(14) Section 4537 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(15) Section 4538(b) is amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(16) Section 4540(c) is amended by striking out "5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such title 5" and inserting in lieu thereof "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5".

(17) Section 4621(f) is amended by striking out "sections 772, 773, or 3612" and inserting in lieu thereof "section 772 or 773".

(18)(A) Section 4624(c) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 4624 is amended to read as follows:

"§ 4624. Medical supplies: civilian employees of the Army; American National Red Cross; Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 439 is amended to read as follows:

"4624. Medical supplies: civilian employees of the Army; American National Red Cross; Soldiers' and Airmen's Home."

(19) Sections 4681, 4682, 4684, and 4686 are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(20) Section 4712 is amended by striking out "Soldiers' Home" in subsections (a)(2) and (f) and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(21)(A) Section 4713(a) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 4713 is amended to read as follows:

"§ 4713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 445 is amended to read as follows:

"4713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home."

(22) Section 4745(a) is amended by striking out "chairman of the Federal Maritime Board" and inserting in lieu thereof "Secretary of Commerce".

(23) The heading of section 4777 is amended to read as follows:

"§ 4777. Permits: military reservations; landing ferries, erecting bridges, driving livestock".

(24)(A) Section 4837 is amended by striking out "(d)".

(B) The heading of such section is amended to read as follows:

“§ 4837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members”.

(C) The item relating to such section in the table of sections at the beginning of chapter 453 is amended to read as follows:

“4837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members.”.

AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE

SEC. 513. Subtitle C is amended as follows:

(1) The items relating to chapter 641 in the table of chapters at the beginning of subtitle C, and in the table of chapters at the beginning of part IV of such subtitle, are amended to read as follows:

“641. Naval Petroleum Reserves 7420”.

(2) Section 5001(a)(3) is amended by striking out “, male or female,”. 10 USC 5001.

(3) Section 5032(a) is amended by striking out “Secretary of the Treasury” and inserting in lieu thereof “Secretary of Transportation”.

(4) Section 5036(c) is amended by striking out “section 6” and inserting in lieu thereof “section 3347”.

(5)(A) The table of sections at the beginning of chapter 507 is amended by striking out the item relating to section 5062.

(B) The item in such table relating to section 5064 is amended to read as follows:

“5064. Office of Budget and Reports: Director; Assistant Director.”.

(6) The table of sections at the beginning of chapter 513 is amended by striking out the item relating to section 5134.

(7)(A) The item relating to section 5202 in the table of sections at the beginning of chapter 515 is amended to read as follows:

“5202. Assistant Commandant: detail; succession to duties.”.

(B) The heading of section 5202 is amended to read as follows:

“§ 5202. Assistant Commandant: detail; succession to duties”.

(8)(A) The item relating to section 5414 in the table of sections at the beginning of chapter 531 is amended to read as follows:

“5414. Naval Reserve and Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4.”.

(B) The heading of section 5414 is amended to read as follows:

“§ 5414. Naval Reserve and Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4”.

(9)(A) The items relating to sections 5457 and 5458 in the table of sections at the beginning of chapter 533 are amended to read as follows:

“5457. Naval Reserve: officers in an active status in grades above chief warrant officer, W-4.”.

“5458. Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4.”.

(B) The heading of section 5457 is amended to read as follows:

“§ 5457. Naval Reserve: officers in an active status in grades above chief warrant officer, W-4”.

(C) The heading of section 5458 is amended to read as follows:

“§5458. Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4”.

(10) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5507.

(11) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5907.

(12) The table of sections at the beginning of chapter 559 is amended by striking out the item relating to section 6111.

(13) The table of sections at the beginning of chapter 561 is amended by striking out the items relating to sections 6141, 6142, 6143, 6144, 6145, 6146, and 6147.

10 USC 6201.

(14) Section 6201(b) is amended by striking out “section 16 of title 24” and inserting in lieu thereof “section 4812 of the Revised Statutes (24 U.S.C. 16)”.

(15)(A) The item relating to section 6221 in the table of sections at the beginning of chapter 565 is amended to read as follows:

“6221. United States Navy Band.”.

(B) Such table of sections is further amended by striking out the item relating to section 6224.

(16) Section 6221 is amended to read as follows:

“§ 6221. United States Navy Band

“There is a Navy band known as the United States Navy Band.”.

(17) The following sections are each amended by striking out “the date of the enactment of the Department of Defense Authorization Act, 1981” each place it appears and inserting in lieu thereof “September 8, 1980”: sections 6151(b), 6151(c), 6322(c), 6323(e), 6325(a)(2), 6325(b)(2), 6326(c)(2), 6330(c), and 6383(c)(2).

Ante, p. 1077.

(18) Subsections (f) and (g) of section 6222 are redesignated as subsections (e) and (f), respectively.

(19) Sections 6326(c)(2)(A) and 6330(c)(1)(A) are amended by striking out “senior enlisted advisor of the Navy” and inserting in lieu thereof “master chief petty officer of the Navy”.

(20) Section 6913(a) is amended by striking out “section 6023(b)” and inserting in lieu thereof “section 2003”.

(21) Subsections (g), (h), and (i) of section 6915 are redesignated as subsections (f), (g), and (h), respectively.

(22) Section 7043(b) is amended by striking out “provided for grade 18 of the general schedule of the Classification Act of 1949, as amended” and inserting in lieu thereof “authorized for grade GS-18 of the General Schedule under section 5332 of title 5”.

5 USC 5332 note.

(23) Section 7045 is amended—

(A) by striking out “and Treasury” both places it appears and inserting in lieu thereof “and Transportation”; and

(B) by striking out “the Treasury” in subsection (b) and inserting in lieu thereof “Transportation”.

(24) Sections 7204(a)(1)(D), 7205(a)(4), and 7211(a)(4) are amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(25) Section 7212(a) is amended by striking out “5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such” and inserting in lieu thereof “and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of”.

(26) Section 7299 is amended by striking out “the Act of June 30, 1936, chapter 881 (49 Stat. 2036)” and inserting in lieu thereof

“the Act entitled ‘An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes’, approved June 30, 1936 (commonly referred to as the ‘Walsh-Healy Act’) (41 U.S.C. 35-45)”.

(27) Section 7305 is amended by striking out “, as amended” in subsections (a) and (k). 10 USC 7305.

(28) Section 7307(b) is amended—

(A) by striking out “the date of enactment of this paragraph” both places it appears and inserting in lieu thereof “August 5, 1974”; and

(B) by striking out “of enactment” after “such date”.

(29) Section 7308(a) is amended by striking out “section 474 of title 40” and inserting in lieu thereof “subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)”.

(30) Section 7420 is amended—

(A) by striking out “(a)” before “In this chapter”;

(B) by striking out “Naval Petroleum Reserve Numbered 4” and all that follows through “Naval Petroleum Reserves Production Act of 1976);” in paragraph (2); and

(C) by striking out “Secretary of the Navy” in paragraph (4) and inserting in lieu thereof “Secretary of Energy”.

(31) Section 7422(c) is amended—

(A) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

“(B) to produce such reserves at the maximum efficient rate consistent with sound engineering practices for a period ending not later than April 5, 1982;”;

(B) by striking out “hereinafter provided” in paragraph (1)(C) and inserting in lieu thereof “provided in section 7430 of this title”;

(C) by striking out “discrimination” in the second sentence of paragraph (1) and inserting in lieu thereof “discrimination”;

(D) by striking out “, chapter 307 (46 Stat. 1421; 40 U.S.C. 258(a))” in the fourth sentence of paragraph (1) and inserting in lieu thereof “(40 U.S.C. 258a-258e)”;

(E) by striking out “At the conclusion of the six-year production period authorized by paragraph (1)(B) of this subsection” in paragraph (2) and inserting in lieu thereof “After April 5, 1982,”; and

(F) by striking out “within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976” in paragraph (3) and inserting in lieu thereof “by July 4, 1976”.

(32)(A) Sections 7424(a)(2), 7425(a), and 7426(a) are amended by striking out “naval petroleum reserve numbered 1” each place it appears and inserting in lieu thereof “Naval Petroleum Reserve Numbered 1”.

(B) The heading of section 7426 is amended to read as follows:

“§ 7426. Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1”.

(C) The item relating to such section in the table of sections at the beginning of chapter 641 is amended to read as follows:

“7426. Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1.”

10 USC 7427.

(33) Section 7427 is amended by striking out "section 226e of title 30" and inserting in lieu thereof "section 17(j) of the Act of February 25, 1920 (30 U.S.C. 226(j))".

(34) Section 7430 is amended—

(A) by striking out "per centum" in subsections (c) and (d)(3) and inserting in lieu thereof "percent";

(B) by striking out "(83 Stat. 841)" in subsection (e) and inserting in lieu thereof "(50 U.S.C. App. 2401 et seq.)";

(C) by inserting "of this title" in subsection (f) after "section 7422(c)" and after "section 7431(a)(3)";

(D) by striking out clauses (1), (2), (3), (4), and (5) in subsection (i) and inserting in lieu thereof the following:
 "(1) the Sherman Act (15 U.S.C. 1 et seq.);
 "(2) the Clayton Act (15 U.S.C. 12 et seq.);
 "(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
 "(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the 'Robinson-Patman Act') (15 U.S.C. 13a, 13b, and 21a)."; and

(E) by inserting "(15 U.S.C. 717 et seq.)" in subsection (j) after "the Natural Gas Act".

(35) Section 7432(a)(1) is amended by striking out the semicolon and inserting in lieu thereof a period.

(36) Section 7434 is amended by striking out "of the Navy".

(37) Section 7438 is amended—

(A) in subsection (a)—

(i) by striking out "The Administrator of the Energy Research and Development Administration" and inserting in lieu thereof "The Secretary"; and

(ii) by striking out "; chapter 172 (58 Stat. 190), as amended" and inserting in lieu thereof "(30 U.S.C. 321 et seq.)";

(B) in subsection (b)—

(i) in the first sentence, by striking out "The Administrator of the Energy Research and Development Administration" and inserting in lieu thereof "The Secretary", and by striking out "above" after "subsection (a)";

(ii) in the second sentence, by striking out "the Administrator" and all that follows through "subsection (a) above" and inserting in lieu thereof "the Secretary may use or lease for use by institutions, organizations, or individuals, public or private, the facility described in subsection (a)"; and

(iii) in the third sentence, by striking out "The Administrator" and all that follows through "the Secretary" and inserting in lieu thereof "The Secretary may, after consultation"; and

(C) in subsection (c), by striking out "herein contained" and inserting in lieu thereof "in this chapter".

(38) Section 7522(b) is amended by striking out "Section 529 of title 31" and inserting in lieu thereof "Section 3648 of the Revised Statutes (31 U.S.C. 529)".

(39) Sections 7541, 7541a, 7542(a), and 7545(a) are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(40) Section 7545(b) is amended by striking out "section 366" 10 USC 7545. and inserting in lieu thereof "section 3301".

(41) Sections 7571(a)(3), 7572(a)(3), and 7576(a)(3) are amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(42) Section 7605 is amended by striking out "sections 521 and 543 of title 31" and inserting in lieu thereof "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)".

(43) Section 7721 is amended by striking out "sections 781-790 of title 46" and inserting in lieu thereof "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. 781-790)".

AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE

SEC. 514. Subtitle D is amended as follows:

(1) The items relating to chapter 803 in the table of chapters at the beginning of subtitle D, and in the table of chapters at the beginning of part I of such subtitle, are amended to read as follows:

"803. Department of the Air Force 8010".

(2) Section 8253 is amended by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)".

(3) The heading of section 8375 is amended to read as follows:

"§ 8375. Commissioned officers; brigadier general or major general; procedure on reassignment".

(4) The table of sections at the beginning of chapter 849 is amended by striking out the items relating to sections 8632, 8633, and 8636.

(5) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8689.

(6) The item relating to section 8852 in the table of sections at the beginning of chapter 863 is amended to read as follows:

"8852. Thirty-five years or five years in grade: reserve major generals."

(7) Sections 8848(c) and 8851(c) are amended by striking out "United States Code,".

(8) The tables contained in sections 8991 and 8992 are each amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in the heading for column 1 and inserting in lieu thereof "after September 7, 1980".

(9) Section 9315(c) is amended by striking out "Commissioner of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

(10) Section 9331(a) is amended by striking out "in this chapter called the 'Academy,'" and inserting in lieu thereof "(hereinafter in this chapter referred to as the 'Academy')".

(11) Section 9342(h) is amended by striking out "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the" and inserting in lieu thereof "The".

(12) Section 9441(b) is amended—

(A) by striking out "section 202 of title 36" and inserting in lieu thereof "section 2 of the Act of July 1, 1946 (36 U.S.C. 202)"; and

(B) by striking out "the Travel Expense Act of 1949 (5 U.S.C. 835 et seq.)" in clause (7) and inserting in lieu thereof "subchapter I of chapter 57 of title 5".

10 USC 9537.

(13) Section 9537 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(14) Section 9538(b) is amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(15) Section 9540(c) is amended by striking out "5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such title 5" and inserting in lieu thereof "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5".

(16) Section 9621(f) is amended by striking out "773, or 8612" and inserting in lieu thereof "or 773".

(17)(A) Section 9624(c) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 9624 is amended to read as follows:

"§9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 939 is amended to read as follows:

"9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Soldiers' and Airmen's Home."

(18) Sections 9681, 9682, 9684, and 9686 are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(19) Section 9712 is amended by striking out "Soldiers' Home" in subsections (a)(2) and (f) and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(20)(A) Section 9713(a) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of such section is amended to read as follows:

"§9713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 945 is amended to read as follows:

"9713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home."

(21) The table of sections at the beginning of chapter 949 is amended by striking out the item relating to section 9772.

(22)(A) Section 9837 is amended by striking out "(d)".

(B) The heading of such section is amended to read as follows:

"§9837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members".

(C) The item relating to such section in the table of sections at the beginning of chapter 953 is amended to read as follows:

"9837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members."

AMENDMENTS TO TITLE 32, UNITED STATES CODE

SEC. 515. Title 32 of the United States Code is amended as follows:

(1) The item relating to section 307 in the table of sections at the beginning of chapter 3 is amended to read as follows:

"307. Federal recognition of officers: examination; certificate of eligibility."

(2) Subsection (d) of section 303 is redesignated as subsection (c). 32 USC 303.

(3) Section 334(e) is amended by striking out "title 32" and inserting in lieu thereof "this title".

(4) Clauses (2) and (3) of section 708(b) are redesignated as clauses (1) and (2), respectively.

(5) Section 709(f) is amended by striking out ", United States Code,".

(6) Section 709(g) is amended—

(A) by striking out "6102 of title 5, United States Code," both places it appears and inserting in lieu thereof "6101(a) of title 5";

(B) by striking out "section 5332 of title 5, United States Code" and inserting in lieu thereof "section 5332 of title 5"; and

(C) by striking out "5543 of title 5, United States Code," and inserting in lieu thereof "5543 of title 5".

(7) Section 709(h) is amended by striking out ", except that" and all that follows in such section and inserting in lieu thereof a period.

(8) Section 710(d) is amended by striking out "section 725c(b)(22) of title 31" and inserting in lieu thereof "section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934 (31 U.S.C. 725c(b)(22))".

(9) Section 716(a) is amended by striking out "the effective date of this section" and inserting in lieu thereof "October 2, 1972".

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 516. Title 37 of the United States Code is amended as follows:

(1) Section 101 is amended—

(A) in paragraphs (3) and (5)(E), by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) in paragraph (5)(F), by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 201(f) is amended by striking out "subsections (e) and (f)" and inserting in lieu thereof "subsections (d) and (e)".

(3) Section 205(a) is amended—

(A) by striking out "Environmental Science Services Administration" in clause (5) and in the last sentence and

37 USC 101.

inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by inserting "Environmental Science Services Administration or the" in the last sentence before "Coast and Geodetic Survey".

37 USC 209.

(4) Section 209(a) is amended by striking out "section 456(d)(1) of title 50, appendix" and inserting in lieu thereof "section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))".

(5) Section 301 is amended—

(A) in subsection (a)(2)(B), by striking out "clause (A) above" and inserting in lieu thereof "subclause (A) of this clause";

(B) in subsection (a)(2)(C), by striking out "clause (B) above" and inserting in lieu thereof "subclause (B) of this clause"; and

(C) in subsection (f), by striking out "subsection (a)(1)-(12)" and inserting in lieu thereof "subsection (a)".

(6) Section 301a(a)(3) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(7) Section 311(c) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(8) Section 312(a) is amended by redesignating clauses (3), (4), and (5) as clauses (2), (3), and (4), respectively.

(9) Section 312c is amended—

(A) in subsection (a), by striking out "301a of this title: *Provided, That—*" and inserting in lieu thereof "301a of this title. However—"; and

(B) in subsection (d), by striking out "House and Senate Armed Services Committees" and inserting in lieu thereof "Committees on Armed Services of the Senate and House of Representatives".

(10) Section 403 is amended—

(A) by striking out "Environmental Science Services Administration" in subsection (e) and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by striking out "words" in subsection (j) and inserting in lieu thereof "terms".

(11) Section 406b is amended—

(A) by striking out "Uniformed Services" and inserting in lieu thereof "uniformed services";

(B) by striking out "of this chapter" and inserting in lieu thereof "of this title"; and

(C) by striking out "later: *Provided, however, That*" and inserting in lieu thereof "later. However,".

(12) Section 411(d) is amended by striking out "words" and inserting in lieu thereof "term".

(13) The heading of section 416 is amended to read as follows:

"§ 416. Uniform allowance: officers; additional allowances".

(14) Section 501 is amended—

(A) by striking out "the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted" both places it appears and inserting in lieu thereof "September 1, 1976";

(B) by striking out “unusual” in subsection (d) and inserting in lieu thereof “unused”;

(C) by inserting “of this section” in subsection (f) after “subsection (b), (d), or (g)”; and

(D) by striking out “Surgeon General” in subsection (g) and inserting in lieu thereof “Secretary of Health and Human Services”.

(15) Sections 502(a) and 503 are amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”. 37 USC 502, 503.

(16) Section 558 is amended by striking out “title 26” and inserting in lieu thereof “the Internal Revenue Code of 1954”.

(17) Section 602(b)(4) is amended by striking out “Department of Health, Education, and Welfare” and inserting in lieu thereof “Department of Health and Human Services”.

(18)(A) The text of section 706 is amended by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(B) The heading of such section is amended to read as follows:

“§706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration”.

(C) The item relating to such section in the table of sections at the beginning of chapter 13 is amended to read as follows:

“706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration.”

(19) Section 707 is amended by striking out “(a)”.

(20) Section 801 is amended—

(A) by redesignating subsection (c) as subsection (b); and

(B) by striking out “Environmental Science Services Administration” both places it appears and inserting in lieu thereof “National Oceanic and Atmospheric Administration”.

(21) The item relating to section 1005 in the table of sections at the beginning of chapter 19 is amended to read as follows:

“1005. Army and Air Force: prompt payments required.”

(22) Section 1001 is amended—

(A) in subsection (b), by striking out “Environmental Science Services Administration” and inserting in lieu thereof “National Oceanic and Atmospheric Administration”; and

(B) in subsection (c), by striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”.

(23) Section 1006(h) is amended by striking out “section 529 of title 31” and inserting in lieu thereof “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

(24) Section 1009 is amended—

(A) by striking out “, United States Code,” in subsection (a); and

(B) by striking out “section 8 of the Act of December 16, 1967 (Public Law 90-207; 81 Stat. 654), section 402 or 403 of this title,” in subsection (b)(2) and inserting in lieu thereof “section 402 or 403 of this title”.

TITLE VI—TRANSITION PROVISIONS

PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE

REGULAR OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE

10 USC 611 note.
Post, p. 2941.

SEC. 601. (a) Except as provided in sections 603 and 604, any regular officer of the Army or Air Force who on the effective date of this Act is on active duty and—

(1) is serving in a temporary grade below lieutenant general that is higher than his regular grade;

(2) is on a list of officers recommended for promotion to a temporary grade below lieutenant general; or

(3) is on a list of officers recommended for promotion to a regular grade higher than the grade in which he is serving; shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

Ante, p. 2851.

(b) An officer referred to in clause (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered under chapter 36 of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the temporary grade in which he was serving on the effective date of this Act as if he were serving in his regular grade.

Ante, p. 2850.

(c) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in subsection (a)(1) who is promoted to the temporary grade in which he is serving on the effective date of this Act is the date of his temporary appointment in that grade.

Ante, p. 2869.

RESERVE OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE

10 USC 611 note.

SEC. 602. (a)(1) Except as provided in subsection (b) and sections 605 and 606, any reserve officer of the Army or Air Force who on the effective date of this Act is subject to placement on the active-duty list of his armed force and—

(A) is serving in a temporary grade below lieutenant general that is higher than his reserve grade; or

(B) is on a list of officers recommended for promotion to a temporary grade below lieutenant general that is the same as or higher than his reserve grade;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the reserve grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

Ante, p. 2851.

(2) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in

Ante, p. 2869.

paragraph (1)(A) who is promoted to the grade to which he is considered under such paragraph to have been recommended for promotion is the date of his temporary appointment in that grade.

(b) A reserve officer of the Army or Air Force who on the effective date of this Act—

(1) is subject to placement on the active-duty list of his armed force;

(2) is serving on active duty in a temporary grade; and

(3) holds a reserve grade higher than the temporary grade in which he is serving,

shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under such chapter to such a grade, his appointment to such grade shall be a temporary appointment.

Ante, p. 2850.

REGULAR OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION

SEC. 603. (a) An officer of the Army or Air Force who on the effective date of this Act—

10 USC 611 note.

(1) holds the regular grade of first lieutenant, captain, or major; and

(2) has been considered once but not recommended for promotion to the next higher regular grade by a selection board convened under the laws in effect on the day before the effective date of this Act,

shall, within one year after the effective date of this Act, be considered for promotion to the next higher regular grade by a selection board convened by the Secretary concerned under the laws in effect on the day before the effective date of this Act.

(b)(1)(A) An officer described in subsection (a) who is recommended for promotion by the selection board which considers him pursuant to such subsection shall be considered to have been recommended for promotion to the next higher regular grade or the grade in which he is serving, whichever grade is higher, by a board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who was serving in the temporary grade equivalent to the grade to which he is considered to have been recommended for promotion and who is promoted to that grade is the date of his temporary appointment in that grade.

Ante, p. 2851.

Ante, p. 2869.

(2) An officer described in subsection (a) who is not recommended for promotion by such board shall, unless continued on active duty under section 637 of such title, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws applicable on the day before the effective date of this Act.

Ante, p. 2863.

REGULAR OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION

SEC. 604. An officer of the Army or Air Force who on the day before the effective date of this Act—

10 USC 611 note.

(1) holds the regular grade of first lieutenant, captain, or major; and

(2) has twice failed of selection for promotion to the next higher regular grade, shall, unless continued on active duty under section 637 of title 10, United States Code, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws in effect on the day before the effective date of this Act.

Ante, p. 2863.

RESERVE OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION

10 USC 611 note. SEC. 605. (a) A reserve officer of the Army or Air Force who on the effective date of this Act—

(1) is on active duty and subject to placement on the active-duty list of his armed force;

(2) holds the reserve grade of first lieutenant, captain, or major; and

(3) has been considered once but not selected for promotion to the next higher reserve grade under section 3366, 3367, 8366, or 8367, as appropriate, of title 10, United States Code,

shall, unless sooner promoted, be considered again for promotion to that grade by a selection board convened under section 3366, 3367, 8366, or 8367, as appropriate, of such title.

(b)(1) An officer described in subsection (a) who is serving on active duty in a temporary grade higher than his reserve grade on the effective date of this Act and who is recommended by the selection board which considers him pursuant to such subsection for promotion to the reserve grade equivalent to the temporary grade in which he is serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who is promoted to the reserve grade equivalent to the temporary grade in which he is serving on such date is the date of his temporary appointment in that grade.

Ante, p. 2851.
Ante, p. 2869.

(2) An officer described in subsection (a) who is serving on active duty in a temporary grade equivalent to or lower than his reserve grade on the effective date of this Act and who is recommended by the selection board which considers him pursuant to such subsection for promotion to a reserve grade higher than the temporary grade in which he was serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 3366, 3367, 8366, or 8367, as appropriate, of such title. If such an officer is not ordered to active duty in his reserve grade, he shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under such chapter to such a grade, his appointment to such grade shall be a temporary appointment to such grade.

Ante, p. 2850.

(3) An officer described in subsection (a) who is not recommended for promotion by the selection board which considers him pursuant to such subsection shall be governed by section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

RESERVE OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION

SEC. 606. An officer of the Army or Air Force who on the day before the effective date of this Act— 10 USC 611 note.

(1) was on active duty and subject to placement on the active-duty list of his armed force; and

(2) held the reserve grade of first lieutenant, captain, or major; and

(3) was considered to have twice failed of selection for promotion to the next higher reserve grade, shall be governed by section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

ENTITLEMENT TO SEVERANCE PAY OR SEPARATION PAY OF OFFICERS SEPARATED OR DISCHARGED PURSUANT TO THIS PART

SEC. 607. (a) An officer who is discharged in accordance with section 603(b)(2) or 604 is entitled, at his election, to— 10 USC 611 note.

(1) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act; or

(2) separation pay, if eligible therefor, under section 1174(a) of title 10, United States Code, as added by this Act.

Ante, p. 2870.

(b) An officer who is separated in accordance with section 605(b)(3) or 606 is entitled, at his election, to—

(1) readjustment pay under section 687 of title 10, United States Code, as in effect on the day before the effective date of this Act; or

Ante, p. 2870.

(2) separation pay, if eligible therefor, under section 1174(c) of title 10, United States Code, as added by this Act.

Ante, p. 2870.

SPECIAL TENURE PROVISIONS FOR OFFICERS SERVING IN TEMPORARY GRADES OF BRIGADIER GENERAL AND MAJOR GENERAL

SEC. 608. (a) Notwithstanding section 635 or 636 of title 10, United States Code, as added by this Act, but subject to subsection (b), a regular officer of the Army or Air Force— 10 USC 611 note.

Ante, p. 2863.

(1) who on the effective date of this Act is serving in the temporary grade of brigadier general or major general;

(2) whose regular grade on such date is below such temporary grade; and

(3) who is promoted pursuant to section 601(a) to the regular grade equivalent to such temporary grade,

Ante, p. 2849.

shall be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act to officers in the permanent grade he held on such date. However, such an officer shall not be subject to a mandatory retirement date which is earlier than the first day of the month following the month of the thirtieth day after he completes 30 years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act.

Ante, p. 2886.

(b)(1) The Secretary of the Army or the Secretary of the Air Force, as appropriate, may convene selection boards under this section for the purpose of recommending from among officers described in subsection (a) officers to be selected to be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act to officers in the permanent grade to which such officers were promoted pursuant to

Ante, p. 2849. section 601(a) or to officers in a lower permanent grade higher than the permanent grade held by such officers on the day before the effective date of this Act.

Ante, p. 2886. (2) Upon the recommendation of a selection board convened under this section, the Secretary concerned may select officers described in subsection (a) to be subject to mandatory retirement in accordance with the provisions of section 3922, 3923, 8922, or 8923, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act, rather than in the manner described in subsection (a).

Ante, p. 2880. (3) Any selection board convened under this section shall be convened in accordance with the provisions of section 3297 or 8297, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act.

(c) This section does not apply to an officer who—

Ante, p. 2850. (1) is sooner retired or separated under another provision of law;

Ante, p. 2863. (2) is promoted to the permanent grade of brigadier general pursuant to section 601(a) and is subsequently promoted to the permanent grade of major general under chapter 36 of title 10, United States Code, as added by this Act; or

(3) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

RIGHT OF MAJORS AND COLONELS TO COMPLETE YEARS OF SERVICE
ALLOWED UNDER PRIOR LAW

10 USC 611 note. SEC. 609. (a)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act—

(A) holds the regular grade of major; or

Ante, p. 2886. (B) is on a list of officers recommended for promotion to the regular grade of major,

Ante, p. 2886. shall be retained on active duty until he completes twenty-one years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code (as in effect on the day before the effective date of this Act), and then be retired under the provisions of section 3913 or 8913 of such title (as in effect on the day before the effective date of this Act) on the first day of the month after the month in which he completes that service.

(2) Paragraph (1) does not apply to an officer who—

(A) is sooner retired or separated under another provision of law;

(B) is promoted to the regular grade of lieutenant colonel; or

(C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

(b)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act—

(A) holds the regular grade of colonel; or

Ante, p. 2886. (B) is on a list of officers recommended for promotion to the regular grade of colonel,

shall be retired under section 3921 or 8921, as appropriate, of such title (as in effect on the day before the effective date of this Act).

(2) Paragraph (1) does not apply to an officer who—

(A) is sooner retired or separated under another provision of law;

(B) is promoted to the regular grade of brigadier general; or

Ante, p. 2863. (C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

REGULAR OFFICERS WHOSE RETIREMENT HAS BEEN DEFERRED

SEC. 610. A regular officer of the Army or Air Force serving on active duty on the effective date of this Act whose retirement under chapter 367 or 867 of title 10, United States Code, has been deferred before that date—

10 USC 611 note.

10 USC 3911 *et seq.*, 8911 *et seq.*

(1) under a provision of such chapter; or

(2) by virtue of a suspension, under any provision of law, of provisions of such chapter which would otherwise require such retirement,

may continue to serve on active duty to complete the period for which his retirement was deferred or until such suspension is removed.

PART B—TRANSITION PROVISIONS RELATING ONLY TO THE NAVY AND MARINE CORPS

OFFICERS SERVING IN A TEMPORARY GRADE BELOW VICE ADMIRAL OR LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION

SEC. 611. (a) Subject to subsection (b), any regular officer of the Navy or Marine Corps, and any reserve officer of the Navy and Marine Corps who on the effective date of this Act is subject to placement on the active-duty list, who on the effective date of this Act—

10 USC 611 note.

(1) is serving on active duty in a temporary grade below vice admiral or lieutenant general that is higher than his permanent grade; or

(2) is on a promotion list,

shall be considered to have been recommended for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be, by a board convened under section 611(a) of title 10, United States Code, as added by this Act.

(b) This section does not apply to an officer—

(1) serving in a temporary grade which, by its own terms, is limited in duration;

(2) designated for limited duty in a grade to which he was appointed under section 5596 of title 10, United States Code, before the effective date of this Act; or

Ante, p. 2894.

(3) recommended for promotion or promoted to a grade under section 5787 of such title, as in effect before the effective date of this Act.

OFFICERS FAILED OF SELECTION FOR PROMOTION

SEC. 612. An officer of the Navy or Marine Corps who on the effective date of this Act is considered to have failed of selection for promotion one or more times to a grade below the grade of captain, in the case of an officer of the Navy, or below the grade of colonel, in the case of an officer of the Marine Corps, is subject to chapter 36 of title 10, United States Code, as added by this Act, as if such failure or failures had occurred under the provisions of such chapter.

10 USC 611 note.

Ante, p. 2850.

RIGHT OF CERTAIN OFFICERS TO RETIRE UNDER PRIOR LAW

SEC. 613. (a)(1) Subject to paragraph (2), an officer who on the effective date of this Act—

10 USC 611 note.

(A) holds the grade of lieutenant commander, commander, or captain in the Regular Navy or the grade of major, lieutenant colonel, or colonel in the Regular Marine Corps; or

(B) is on a promotion list to any such grade, shall be retired on the date provided under the laws in effect on the day before the effective date of this Act.

(2) This subsection does not apply to an officer—

(A) sooner retired or separated under another provision of law;

(B) promoted to a higher grade in the Regular Navy or Regular Marine Corps; or

(C) continued on active duty under section 637 of title 10, United States Code, as added by this Act.

Ante, p. 2863.

(b)(1) An officer of the Navy who on the effective date of this Act—

(A) has the grade of rear admiral in the Regular Navy; or

(B) was on a promotion list to such grade,

shall be continued on active duty or retired in accordance with the laws in effect on the day before the effective date of this Act.

(2) An officer of the Marine Corps who on the effective date of this Act—

(A) has the grade of brigadier general in the Regular Marine Corps; or

(B) was on a promotion list to such grade,

shall be retired in accordance with the laws in effect on the day before the effective date of this Act.

TRANSITION PROVISIONS TO NEW COMMODORE ADMIRAL GRADE

10 USC 611 note.

SEC. 614. (a)(1) An officer of the Navy who on the day before the effective date of this Act—

(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the upper half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of rear admiral.

(2) An officer of the Navy who on the day before the effective date of this Act—

(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half; or

(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of commodore admiral, but shall retain the title of rear admiral.

(3) An officer who on the day before the effective date of this Act was on a list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore admiral with the title of rear admiral.

(b) An officer who on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

(2) was on a list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore

admiral, be entitled to wear the uniform and insignia of a rear admiral.

(c) Except as otherwise provided by law, an officer of the Navy who on the day before the effective date of this Act held the grade of rear admiral on the retired list or the temporary disability retired list retains the grade of rear admiral and is entitled after such date to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

(2) ranks among commissioned officers of the armed forces as and is entitled to the basic pay of—

(A) a commodore admiral, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

(d)(1) An officer of the Navy who—

(A) on the effective date of this Act—

(i) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half or was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date; or

(ii) was on a list of officers recommended for promotion to the grade of rear admiral; and

(B) after such date holds the permanent grade of commodore admiral pursuant to subsection (a),

shall not be subject to the provisions of chapter 36 of title 10, United States Code, as added by this Act, relating to selection for promotion and promotion to the next higher grade.

Ante, p. 2850.

(2) Officers to whom this subsection applies become entitled to hold the permanent grade of rear admiral under the circumstances prescribed for entitlement to the basic pay of a rear admiral of the upper half under the provisions of subsections (a) through (d) of section 202 of title 37, United States Code, as in effect on the day before the effective date of this Act. For the purposes of this subsection, officers serving in the permanent grade of rear admiral or commodore admiral in accordance with subsection (a) shall be considered as serving in the grade of rear admiral, as such grade was in effect on the day before the effective date of this Act.

(e) Unless entitled to a higher grade under another provision of law, an officer of the Navy who on the day before the effective date of this Act—

(1) was serving on active duty; and

(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform and insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.

(f) A reserve officer of the Navy who on the day before the effective date of this Act was in an active status and was serving in the grade of rear admiral or was on a list of reserve officers recommended for

Ante, p. 2900. promotion to the grade of rear admiral is not subject to subsection (f) of section 6389 of title 10, United States Code, as added by this Act.

FEMALE OFFICERS

10 USC 611 note. **SEC. 615.** (a) Except as provided under subsection (c), each regular officer who on the effective date of this Act is serving on the active list in the line of the Navy or on the active list of the Marine Corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in the line of the Navy or in the Marine Corps, as appropriate, in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

Ante, p. 2903.

(b) Each officer of the Navy who on the effective date of this Act is serving in a staff corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in that corps in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

(c) Any officer who on the effective date of this Act is serving on the active list in the line of the Navy under an appointment made under section 5590 of title 10, United States Code, and who meets the qualifications for appointment in a staff corps of the Navy may, in lieu of being reappointed in the line of the Navy under subsection (a), be appointed in that staff corps.

(d) Each officer reappointed in a staff corps pursuant to subsection (b) or appointed in a staff corps under subsection (c) shall be considered for all purposes as having been originally appointed in such staff corps in accordance with the provisions of title 10, United States Code, as amended by this Act.

(e) Except as otherwise specifically provided by law, all provisions of law relating to appointment, promotion, separation, and retirement which are applicable to male officers of the Regular Navy or Regular Marine Corps, as appropriate, apply to officers reappointed pursuant to subsection (a) or (b) or appointed under subsection (c).

(f)(1) As soon as practicable after completion of the appointments and reappointments provided for in subsections (a), (b), and (c), the name of each officer so appointed or reappointed shall be entered on the appropriate active-duty list of the Navy or the Marine Corps in a position among officers of her grade determined in accordance with regulations prescribed by the Secretary of the Navy. Such officers shall be placed on the appropriate active-duty list without change in their relative positions held on the lineal list or any list for promotion established for them while they were serving under an appointment under any provision of title 10, United States Code, repealed by this Act.

(2) Any female officer—

(A) who, by virtue of her date of rank and other considerations, would be placed on a list of officers eligible for consideration for promotion in a position senior to an officer who has failed of selection for promotion one or more times; and

(B) who is considered to have failed of selection for promotion once or is considered to have never failed of selection for promotion,

shall, for purposes of determining her eligibility for consideration for promotion to the next higher grade, be considered with those officers who are considered to have failed of selection for promotion once, or who are considered never to have failed of selection for promotion, as the case may be.

(3) A female officer who is considered to have failed of selection for promotion one or more times and whose position on the active-duty list is junior to the position of any male officer who is considered to have failed of selection for promotion a fewer number of times or not at all may not derive any advantage in the selection process by virtue of such position on the active-duty list.

(g) Except as provided in section 638 of title 10, United States Code, as added by this Act, a regular officer of the Navy or Marine Corps appointed under section 5590 of such title who—

Ante, p. 2864.

(1) before the effective date of this Act had not twice failed of selection for promotion to the next higher grade; and

Ante, p. 2903.

(2) is not selected for promotion to a higher regular grade on or after such effective date,

may not be retired earlier than such officer would have been retired had this Act not been enacted.

(h)(1) Any officer who—

(A) on the effective date of this Act is a lieutenant in the Navy or a captain in the Marine Corps;

(B) under section 6396(c) or 6401 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 13 years of active commissioned service; and

(C) because of the enactment of this Act, is subject to discharge under section 632 of such title because such officer has twice failed of selection for promotion,

Ante, p. 2862.

shall, if such officer has not completed 13 years of active commissioned service at the time otherwise prescribed for the discharge of such officer under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 13 years of active commissioned service.

(2) Any officer who—

(A) on the effective date of this Act is a lieutenant (junior grade) in the Navy or a first lieutenant in the Marine Corps;

(B) under section 6396(d) or 6402 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 7 years of active commissioned service; and

(C) because of the enactment of this Act, is subject to discharge under section 631 of such title because such officer has twice failed of selection for promotion,

Ante, p. 2861.

shall, if that officer has not completed 7 years of active commissioned service at the time otherwise prescribed for such discharge under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 7 years of active commissioned service.

LIMITED-DUTY OFFICERS

SEC. 616. An officer of the Regular Navy or Regular Marine Corps who on the effective date of this Act is an officer who was designated for limited duty before that date under section 5589 of title 10, United

10 USC 611 note.

Ante, pp. 2893,
2898.

Ante, p. 2850.

States Code, is subject to section 6383 of such title (as in effect on the day before the effective date of this Act), unless promoted to a higher permanent grade under chapter 36 of title 10, United States Code, as added by this Act.

CERTAIN NAVY LIEUTENANTS HOLDING TEMPORARY APPOINTMENTS IN
THE GRADE OF LIEUTENANT COMMANDER

10 USC 611 note.

SEC. 617. Any officer who on the effective date of this Act holds a temporary appointment in the grade of lieutenant commander under section 5787d of title 10, United States Code, shall on and after such date be considered to be serving in such grade as if such appointment had been made under section 5721 of such title, as added by this Act.

DIRECTOR OF BUDGET AND REPORTS OF THE NAVY

10 USC 611 note.

SEC. 618. (a) An officer of the Navy who on the day before the effective date of this Act was serving on active duty and entitled to rank and privileges of retirement under section 5064 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall have his rank and retirement privileges determined under the laws in effect on such date.

PART C—GENERAL TRANSITION PROVISIONS

ESTABLISHMENT OF INITIAL ACTIVE-DUTY LISTS

10 USC 611 note.

SEC. 621. (a)(1) Not later than 6 months after the effective date of this Act, all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the active-duty list for their armed force under chapter 36 of title 10, United States Code, as added by this Act, shall be placed on such list with the same relative seniority which they held on the day before the effective date of this Act. An officer placed on an active-duty list under this section shall be considered to have been placed on such list as of the effective date of this Act.

Ante, p. 2850.

Ante, p. 2855.

(2) Regulations prescribed under section 620 of title 10, United States Code, as added by this Act, shall be applicable to the placement of officers on the active-duty list under paragraph (1).

(b) In order to maintain the relative seniority among officers of the Army, Navy, Air Force, or Marine Corps as it existed on the day before the effective date of this Act, the Secretary of the military department concerned may, during the 1-year period beginning on the effective date of this Act, adjust the date of rank of any officer of such armed force who was serving on active duty on such effective date. The authority of the Secretary concerned under this section shall be administered under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

OFFICERS SERVING IN THE SAME TEMPORARY GRADE AND PERMANENT
GRADE; DATE OF RANK

10 USC 611 note.

SEC. 622. (a) Any officer of the Army, Navy, Air Force, or Marine Corps who on the effective date of this Act is serving on active duty in a temporary grade which is the same as his permanent grade shall on such date be serving in such grade subject to this title and the amendments made by this Act. The date of rank of such officer in that grade is the date of his temporary appointment to that grade.

OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL OR REAR
ADMIRAL

SEC. 623. (a) Any officer who on the day before the effective date of this Act held a temporary appointment in the grade of lieutenant general or general under section 3066, 5232, or 8066 of title 10, United States Code, or a temporary appointment in the grade of vice admiral or admiral under section 5231 of such title, shall on and after such date be considered to be serving in such grade as if such appointment had been made under section 601 of such title, as added by this Act. 10 USC 611 note.
Ante, pp. 2878, 2896.
Ante, p. 2896.
Ante, p. 2849.

(b)(1) Any designation of a position as a position of importance and responsibility made by the President under section 3066 or 8066 of title 10, United States Code, before the effective date of this Act, shall remain in effect, unless changed by the President, as a designation of such position as a position of importance and responsibility under section 601 of such title, as added by this Act.

Ante, p. 2849.

(2) Any position held by an officer under section 5231 or 5232 of title 10, United States Code, on the effective date of this Act shall, unless changed by the President, be deemed to be a position of importance and responsibility designated by the President under section 601 of title 10, United States Code.

Ante, p. 2896.

Ante, p. 2849.

(c) Any officer who before the effective date of this Act served in the grade of lieutenant general, general, vice admiral, or admiral but was not serving in such grade on the day before the effective date of this Act shall for the purposes of section 1370(c) of title 10, United States Code, as added by this Act, be deemed to have held such position under an appointment made under section 601 of such title, as added by this Act.

Ante, p. 2876.

Ante, p. 2849.

YEARS OF SERVICE FOR INVOLUNTARY RETIREMENT OR DISCHARGE

SEC. 624. (a) In determining whether any officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act is subject to involuntary retirement or discharge under chapter 36 of title 10, United States Code, as added by this Act, the years of service of the officer for such purpose shall be computed by adding— 10 USC 611 note.

Ante, p. 2850.

(1) the amount of service creditable to such officer on the day before the effective date of this Act for the purpose of determining whether the officer is subject to involuntary retirement or discharge; and

(2) all subsequent active commissioned service of such officer.

(b) In the case of an officer for whom no means of computing service creditable in determining whether the officer is subject to involuntary retirement or discharge existed under the law in effect on the day before the effective date of this Act, the amount of creditable service of such officer for such purpose for the period before the effective date of this Act shall be determined under regulations prescribed by the Secretary of Defense, except that such an officer may not be credited with an amount of service less than the amount of his active commissioned service.

SAVINGS PROVISION FOR CONSTRUCTIVE SERVICE PREVIOUSLY GRANTED

SEC. 625. (a) The amendments made by this Act do not affect the crediting of years of service to any person who on the day before the effective date of this Act— 10 USC 611 note.

(1) had been credited with years of service upon an original appointment as an officer or after such an appointment; or
 (2) was participating in a program leading to an appointment as an officer in the Army, Navy, Air Force, or Marine Corps and the crediting of years of service.

(b)(1) Any officer who on the effective date of this Act is an officer of the Army or Navy in the Medical or Dental Corps of his armed force, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service creditable to him for such purposes under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act.

10 USC 2112 *et seq.*
 10 USC 2120 *et seq.*

(2) Any person who on the day before the effective date of this Act was enrolled in the Uniformed Services University of the Health Sciences under chapter 104 of this title or the Armed Forces Health Professions Scholarship Program under chapter 105 of this title and who on or after the effective date of this Act graduates from such university or completes such program, as the case may be, and is appointed in one of the categories specified in paragraph (1) is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service that would have been credited to him under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act, had such clauses not been repealed by this Act.

MISCELLANEOUS PROVISIONS RELATING TO YEARS OF SERVICE

10 USC 611 note.

SEC. 626. (a) For the purpose of computing the years of service for pay and allowances of an officer of the Army, Navy, Air Force, or Marine Corps, including retired pay, severance pay, readjustment pay, separation pay, and basic pay, the total years of service of such officer shall be computed by adding to that service so creditable on the day before the effective date of this Act all subsequent service as computed under title 10, United States Code, as amended by this Act.

Ante, p. 2850.

(b) An officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the effective date of this Act and who is retired under any provision of chapter 36 of title 10, United States Code, as added by this Act, shall be entitled to retired pay in an amount equal to not less than 50 percent of the basic pay upon which his retired pay is based.

(c) The service that an officer of the Army, Navy, Air Force, or Marine Corps has in a particular grade is the sum of—

(A) the years, months, and days of service in that grade accrued under the laws in effect before the effective date of this Act; and

(B) the years, months, and days of service in that grade accrued under the laws in effect on and after the effective date of this Act.

TRANSITION TO OFFICER GRADE-STRENGTH TABLES DURING FISCAL YEAR 1981

10 USC 611 note.

SEC. 627. For the fiscal year ending on September 30, 1981, the maximum number of officers authorized to be serving on active duty as of the end of such fiscal year in each of the grades of major, lieutenant colonel, and colonel for the Army, Air Force, and Marine Corps, and in each of the grades of lieutenant commander,

commander, and captain for the Navy, under section 523 of title 10, United States Code, as added by this Act, is increased by the number equal to one-half the difference between (1) the actual number of officers of that armed force serving on active duty in that grade on September 30, 1980 (excluding officers in categories specified in subsection (b) of such section), and (2) the number specified in the table contained in such section for such armed force and grade based upon the total number of commissioned officers of such armed force on active duty on September 30, 1981 (excluding officers in categories specified in subsection (b) of such section).

Ante, p. 2842.

RIGHT OF COMMISSIONED OFFICERS WITH PERMANENT ENLISTED OR WARRANT OFFICER STATUS TO RETIRE IN HIGHEST ENLISTED OR WARRANT OFFICER GRADE HELD

SEC. 628. (a) A member of the Army, Navy, Air Force, or Marine Corps who—

10 USC 611 note.

(1) on the day before the effective date of this Act had a permanent status as an enlisted member or as a warrant officer (or had a statutory right to be enlisted or to be appointed as a warrant officer) and was serving as an officer under a temporary appointment; and

(2) on or after the effective date of this Act and before completing 10 years of commissioned service for purposes of retirement eligibility under section 3911, 6323, or 8911 of title 10, United States Code, completes 20 years of total service, as determined under section 1405 of such title,

Ante, p. 2877.

is entitled to retire or transfer to the Fleet Reserve or Fleet Marine Corps Reserve in the highest grade he held as an enlisted member or a warrant officer.

SAVINGS PROVISION FOR RETIRED GRADE FOR OFFICERS NOT SUBSEQUENTLY PROMOTED

SEC. 629. In applying section 1370(a)(2) of title 10, United States Code, as added by this Act, to an officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act and who on or after the effective date of this Act is not promoted to a grade higher than the grade he held on the day before the effective date of this Act or, in the case of an officer who was on a list of officers recommended for promotion on such date, is not promoted to a grade higher than the grade to which he was recommended for promotion, "two years" shall be substituted for "three years".

10 USC 611 note.
Ante, p. 2876.

EXEMPTION OF CERTAIN OFFICERS FROM SELECTIVE EARLY RETIREMENT PROVISIONS

SEC. 630. An officer of the Army, Navy, Air Force, or Marine Corps who was recommended for continuation on the active list under the Act entitled "An Act to provide improved opportunity for promotion for certain officers in the naval service, and for other purposes", approved August 11, 1959 (Public Law 86-155; 10 U.S.C. 5701 note), or under section 10 of the Act entitled "An Act relating to the promotion and separation of certain officers of the regular components of the armed forces", approved July 12, 1960 (Public Law 86-616; 10 U.S.C. 3297 note), is not subject to section 638 of title 10, United States Code, as added by this Act, relating to selective early retirement.

10 USC 611 note.

Ante, p. 2864.

SAVINGS PROVISION FOR ENTITLEMENT TO READJUSTMENT PAY OR
SEVERANCE PAY UNDER PRIOR PROVISIONS OF LAW

10 USC 611 note. SEC. 631. (a) A member of the Army, Navy, Air Force, or Marine Corps who—

(1) was on active duty (other than for training) on the day before the effective date of this Act; and

(2) after such date is involuntarily discharged or released from active duty under any provision of title 10, United States Code, as in effect on or after such date,

is entitled to receive any readjustment payment or severance pay to which he would have been entitled under laws in effect on the day before the effective date of this Act.

Ante, p. 2870. (b) If a member to whom subsection (a) applies is eligible to receive separation pay under section 1174 of title 10, United States Code, as added by this Act, the member may not receive both a readjustment payment or severance pay under laws in effect on the day before the effective date of this Act and separation pay under such section, but shall elect which he will receive. If the member fails to make an election in a timely manner, he shall be paid the amount which is more favorable to him.

OFFICERS ON ACTIVE DUTY IN GRADE ABOVE GENERAL

10 USC 611 note. SEC. 632. Section 1251 of title 10, United States Code, as added by *Ante*, p. 2875. this Act, relating to mandatory retirement for age, shall not apply to any officer who on the effective date of this Act was on active duty in a grade above general.

DEFINITIONS

10 USC 611 note. SEC. 633. For the purposes of this title:

(1) The term "officer" does not include warrant officers.

Ante, p. 2855. (2) The term "active-duty list" means the active-duty list established by the Secretary of the military department concerned pursuant to section 620 of title 10, United States Code, as added by this Act.

PART D—ADJUSTMENTS TO TRANSITION PROVISIONS FOR HEALTH
PROFESSIONALS SPECIAL PAY

PRESERVATION OF ENTITLEMENT FOR RESERVE MEDICAL OFFICERS

10 USC 611 note. SEC. 641. Any person—

(1) who before June 30, 1980, served on active duty for not less than one year as a reserve officer of the Medical Corps of the Army or the Medical Corps of the Navy, as a reserve officer of the Air Force designated as a medical officer, or as a reserve medical officer of the Public Health Service; and

(2) who after having so served on active duty for not less than one year received special pay under section 302 of title 37, United States Code, as in effect during the period beginning on May 6, 1974, and ending on June 30, 1980, for service performed during such period,

shall be considered to have been entitled to such pay as if that part of such section, as in effect during such period, which read "who is on active duty for a period of at least one year" read "who has served on active duty for not less than one year".

PRESERVATION OF LEVEL OF PAY FOR SENIOR DENTAL OFFICERS

SEC. 642. (a) Any officer of the Dental Corps of the Army or the Dental Corps of the Navy, and any officer of the Air Force designated as a dental officer, who was serving on active duty as such an officer on September 30, 1979, and who completes 20 years of active service after such date is entitled, while serving on active duty, to receive for any period after he completes such 20 years of service a total amount of basic pay and special pay paid under section 311 of title 37, United States Code, in an amount not less than the sum of—

10 USC 611 note.

(1) the amount of basic pay which such officer would be entitled to receive if the rates of basic pay in effect on October 1, 1979, had continued in effect; and

(2) the amount of special pay under section 311 of such title which such officer would be entitled to receive under the regulations of the Secretary of Defense in effect on September 30, 1979, if such regulations had continued in effect.

(b) For the purposes of this section, special pay under section 311 of title 37, United States Code, shall be determined—

(1) on a monthly, rather than an annual, basis; and

(2) based on the rates of basic pay in effect on October 1, 1979.

TITLE VII—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

EFFECTIVE DATES

SEC. 701. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on September 15, 1981.

10 USC 101 note.

(b)(1) The authority to prescribe regulations under the amendments made by titles I through IV and under the provisions of title VI shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 415 shall take effect as of July 1, 1980. *Ante*, p. 2906.

(3) The amendments made by part B of title V shall take effect on the date of the enactment of this Act. *Ante*, p. 2920.

(4) Part D of title VI shall take effect on the date of the enactment of this Act. *Ante*, p. 2954.

PRESERVATION OF SUSPENDED STATUS OF LAW IN SUSPENDED STATUS ON EFFECTIVE DATE

SEC. 702. If a provision of law that is in a suspended status on the day before the effective date of this Act is amended by this Act, the suspended status of that provision is not affected by that amendment.

10 USC 101 note.

GENERAL SAVINGS PROVISION

10 USC 101 note. SEC. 703. Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

Approved December 12, 1980.

ARTICLE VII—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

EFFECTIVE DATES

Sec. 701 (a) Except as provided in subsection (b) this Act and the amendments made by this Act shall take effect on September 12, 1981. (b) The authority to prescribe regulations under the amendments made by title I, II, III, IV, and under the provisions of title V shall take effect on the date of enactment of this Act. (c) The amendments made by section 415 shall take effect on July 1, 1981. (d) The amendments made by part B of title V shall take effect on the date of the enactment of this Act. (e) Part D of title VI shall take effect on the date of the enactment of this Act.

LEGISLATION ON SUBJECTS COVERED BY LAW OR SUPPLEMENTED BY LAW ON EFFECTIVE DATE

Sec. 702 If a provision of law that is in a suspended status on the date the effective date of this Act is amended by this Act, the suspended status of that provision is not affected by this amendment.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1462 (Comm. on Armed Services).

SENATE REPORT No. 96-375 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 30, considered and passed Senate.

Vol. 126 (1980): Nov. 17, considered and passed House, amended.

Nov. 21, Senate concurred in House amendment.