

Union Calendar No. 38

103D CONGRESS  
1ST SESSION

**H. R. 1040**

[Report No. 103-84]

**A BILL**

To amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes.

MAY 6, 1993

Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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**IN THE HOUSE OF REPRESENTATIVES**

FEBRUARY 23, 1993

Mr. MONTGOMERY introduced the following bill; which was referred to the  
Committee on Armed Services

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1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Reserve Officer Personnel Management Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 10, United States Code.

**TITLE I—RESERVE OFFICER PERSONNEL MANAGEMENT**

**PART A—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL  
SYSTEM**

Sec. 101. Promotion and retention of reserve officers.

**PART B—CONFORMING AMENDMENTS**

Sec. 111. Definition of reserve active-status list.

Sec. 112. Authority to suspend officer personnel laws during war or national  
emergency.

Sec. 113. Active-duty list promotion boards to have authority to recommend  
that reserve officers considered for promotion be required to  
show cause for retention on active duty.

Sec. 114. Applicability of chapter 36 to reserve officers during war or national  
emergency.

Sec. 115. Grade in which reserve officers are ordered to active duty.

Sec. 116. Date of rank.

Sec. 117. Discharge before completion of required service in case of officers  
having twice failed of selection for captain or navy lieutenant.

Sec. 118. Conforming amendments relating to Navy and Marine Corps officers.

Sec. 119. Repeal of reserve officer personnel policy laws.

Sec. 120. Amendments to title 32, United States Code.

**TITLE II—OTHER PERSONNEL POLICY AMENDMENTS**

**PART A—APPOINTMENTS**

Sec. 201. Repeal of separate authority for accession of women in reserve com-  
ponents.

Sec. 202. Appointment authority for reserve grades of lieutenant colonel and  
commander.

Sec. 203. Appointment of former commissioned officers in reserve components.

Sec. 204. Constructive credit for appointment of officers in reserve components  
with qualifying education or experience.

Sec. 205. Computation of years of service for transfer of Army officers to Re-  
tired Reserve.

Sec. 206. Repeal of miscellaneous obsolete appointment authorities.

## PART B—RETIREMENT AND SEPARATION

- Sec. 221. Computation of highest grade in which satisfactorily served for reserve commissioned officers and former officers.

## PART C—OTHER AMENDMENTS

- Sec. 241. Tenure in office of Chief of National Guard Bureau.  
 Sec. 242. Right to reenlist in Regular Army or Regular Air Force after service as an officer.

TITLE III—REORGANIZATION AND CONSOLIDATION OF LAWS  
RELATING TO RESERVE COMPONENTS

- Sec. 301. Laws relating to organization and administration of reserve components.  
 Sec. 302. Laws relating to reserve component personnel policy.  
 Sec. 303. Laws relating to reserve component training and educational assistance programs.  
 Sec. 304. Laws relating to reserve component procurement and equipment.  
 Sec. 305. Legislative construction.

## TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS

- Sec. 401. Amendments to subtitle A of title 10, United States Code.  
 Sec. 402. Amendments to subtitle B of title 10, United States Code.  
 Sec. 403. Amendments to subtitle C of title 10, United States Code.  
 Sec. 404. Amendments to subtitle D of title 10, United States Code.  
 Sec. 405. Amendments to subtitle E of title 10, United States Code.  
 Sec. 406. Amendments to titles 32 and 37, United States Code.  
 Sec. 407. Amendments to other laws.

## TITLE V—TRANSITION PROVISIONS

- Sec. 501. Continuation on the reserve active-status list of certain reserve colonels of the Army and Air Force.  
 Sec. 502. Effects of selection for promotion and failure of selection for Army and Air Force officers.  
 Sec. 503. Effects of selection for promotion and failure of selection for Navy and Marine Corps officers.  
 Sec. 504. Delays in promotions and removals from promotion list.  
 Sec. 505. Minimum service qualifications for promotion.  
 Sec. 506. Establishment of reserve active-status list.  
 Sec. 507. Preservation of relative seniority under the initial establishment of the reserve active-status list.  
 Sec. 508. Grade on transfer to the Retired Reserve.  
 Sec. 509. Rights for officers with over three years service.  
 Sec. 510. Mandatory separation for age for certain reserve officers of the Navy and Marine Corps.

TITLE VI—EFFECTIVE DATES AND GENERAL SAVINGS  
PROVISIONS

- Sec. 601. Effective dates.  
 Sec. 602. Preservation of suspended status of laws suspended as of effective date.  
 Sec. 603. Preservation of preexisting rights, duties, penalties, and proceedings.

**SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE.**

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—RESERVE OFFICER PERSONNEL  
MANAGEMENT**

**PART A—REVISED AND STANDARDIZED RESERVE  
OFFICER PERSONNEL SYSTEM**

**SEC. 101. PROMOTION AND RETENTION OF RESERVE OFFI-  
CERS.**

Title 10, United States Code, is amended by adding at the end the following new subtitle:

**“Subtitle E—Reserve Components**

**“PART I—ORGANIZATION AND ADMINISTRATION**

| “Chap.                                                         | Sec.  |
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| “1001. Definitions .....                                       | 10001 |
| “1003. Reserve Components Generally .....                      | 10101 |
| “1005. Elements of Reserve Components .....                    | 10141 |
| “1007. Administration of Reserve Components .....              | 10201 |
| “1009. Reserve Forces Policy Boards and Committees .....       | 10301 |
| “1011. National Guard Bureau .....                             | 10501 |
| “1013. Budget Information and Annual Reports to Congress ..... | 10541 |

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| “1215. Miscellaneous Prohibitions and Penalties ..... [No present sections] |       |
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“PART III—PROMOTION AND RETENTION OF OFFICERS ON THE  
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“PART IV—TRAINING FOR RESERVE COMPONENTS AND  
EDUCATIONAL ASSISTANCE PROGRAMS

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| “1601. Training Generally .....                                        | [No present<br>sections] |
| “1606. Educational Assistance for Members of the Selected Reserve .... | 16131                    |
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“PART V—SERVICE, SUPPLY, AND PROCUREMENT

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| “1801. Issue of Serviceable Material to Reserve Components ..... | [No present<br>sections] |
| “1803. Facilities for Reserve Components .....                   | 18231                    |
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**1 “PART III—PROMOTION AND RETENTION OF OF-**  
**2 FICERS ON THE RESERVE ACTIVE-STATUS**  
**3 LIST**

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| “1409. Continuation of Officers on the Reserve Active-Status List and<br>Selective Early Removal ..... | 14701 |
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**4 “CHAPTER 1401—APPLICABILITY AND RESERVE**  
**5 ACTIVE-STATUS LISTS**

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| “Sec.                                                                   |
| “14001. Applicability of this part.                                     |
| “14002. Reserve active-status lists: requirement for each armed force.  |
| “14003. Reserve active-status lists: position of officers on the list.  |
| “14004. Reserve active-status lists: eligibility for Reserve promotion. |

“14005. Competitive categories.

“14006. Determination of years in grade.

1 **“§ 14001. Applicability of this part**

2 “This chapter and chapters 1403 through 1411 of  
3 this title apply, as appropriate, to all reserve officers of  
4 the Army, Navy, Air Force, and Marine Corps except war-  
5 rant officers.

6 **“§ 14002. Reserve active-status lists: requirement for**  
7 **each armed force**

8 “(a) The Secretary of each military department shall  
9 maintain a single list, to be known as the reserve active-  
10 status list, for each armed force under the Secretary’s ju-  
11 risdiction. That list shall include the names of all reserve  
12 officers of that armed force who are in an active status  
13 other than those on an active-duty list described in section  
14 620 of this title or warrant officers (including commis-  
15 sioned warrant officers).

16 “(b) The reserve active-status list for the Army shall  
17 include officers in the Army Reserve and the Army Na-  
18 tional Guard of the United States. The reserve active-sta-  
19 tus list for the Air Force shall include officers in the Air  
20 Force Reserve and the Air National Guard of the United  
21 States. The Secretary of the Navy shall maintain separate  
22 lists for the Naval Reserve and the Marine Corps Reserve.

1 **“§ 14003. Reserve active-status: position of officers on**  
2 **the list**

3 “(a) POSITION ON LIST.—Officers shall be carried on  
4 the reserve active-status list of the armed force of which  
5 they are members in the order of seniority of the grade  
6 in which they are serving in an active status. Officers serv-  
7 ing in the same grade shall be carried in the order of their  
8 rank in that grade.

9 “(b) EFFECT ON POSITION HELD BY REASON OF  
10 TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer  
11 whose position on the reserve active-status list results  
12 from service under a temporary appointment or in a grade  
13 held by reason of assignment to a position has, when that  
14 appointment or assignment ends, the grade and position  
15 on that list that the officer would have held if the officer  
16 had not received that appointment or assignment.

17 **“§ 14004. Reserve active-status lists: eligibility for Re-**  
18 **serve promotion**

19 “Except as otherwise provided by law, an officer must  
20 be on a reserve active-status list to be eligible under chap-  
21 ter 1405 of this title for consideration for selection for  
22 promotion or for promotion.

23 **“§ 14005. Competitive categories**

24 “Each officer whose name appears on a reserve ac-  
25 tive-status list shall be placed in a competitive category.  
26 The competitive categories for each armed force shall be



1 specified by the Secretary of the military department con-  
 2 cerned under regulations prescribed by the Secretary of  
 3 Defense. Officers in the same competitive category shall  
 4 compete among themselves for promotion.

5 **“§ 14006. Determination of years in grade**

6 “For the purpose of chapters 1403 through 1411 of  
 7 this title, an officer’s years of service in a grade are com-  
 8 puted from the officer’s date of rank in grade as deter-  
 9 mined under section 741(d) of this title.

10 **“CHAPTER 1403—SELECTION BOARDS**

“Sec.

“14101. Convening of selection boards.

“14102. Selection boards: appointment and composition.

“14103. Oath of members.

“14104. Confidentiality of board proceedings.

“14105. Notice of convening of selection board.

“14106. Communication with board by officers under consideration.

“14107. Information furnished by the Secretary concerned to promotion boards.

“14108. Recommendations by promotion boards.

“14109. Reports of promotion boards: in general.

“14110. Reports of promotion boards: review by Secretary.

“14111. Reports of selection boards: transmittal to President.

“14112. Dissemination of names of officers selected.

11 **“§ 14101. Convening of selection boards**

12 “(a) PROMOTION BOARDS.—(1) Whenever the needs  
 13 of the Army, Navy, Air Force, or Marine Corps require,  
 14 the Secretary concerned shall convene a selection board  
 15 to recommend for promotion to the next higher grade,  
 16 under chapter 1405 of this title, officers on the reserve  
 17 active-status list of that armed force in a permanent grade  
 18 from first lieutenant through brigadier general or, in the  
 19 case of the Naval Reserve, lieutenant (junior grade)

1 through rear admiral (lower half). A selection board con-  
2 vened under this subsection shall be known as a ‘pro-  
3 motion board’.

4 “(2) A promotion board convened to recommend re-  
5 serve officers of the Army or reserve officers of the Air  
6 Force for promotion (A) to fill a position vacancy under  
7 section 14315 of this title, or (B) to the grade of brigadier  
8 general or major general, shall (except in the case of a  
9 board convened to consider officers as provided in section  
10 14301(e) of this title) be known as a ‘vacancy promotion  
11 board’. Any other promotion board convened under this  
12 subsection shall be known as a ‘mandatory promotion  
13 board’.

14 “(b) CONTINUATION BOARDS.—Whenever the needs  
15 of the Army, Navy, Air Force, or Marine Corps require,  
16 the Secretary concerned may convene a selection board to  
17 recommend officers of that armed force—

18 “(1) for continuation on the reserve active-sta-  
19 tus list under section 14701 of this title;

20 “(2) for selective early removal from the reserve  
21 active-status list under section 14704 of this title; or

22 “(3) for selective early retirement under section  
23 14705 of this title.

24 A selection board convened under this subsection shall be  
25 known as a ‘continuation board’.

1 **“§ 14102. Selection boards: appointment and com-**  
2 **position**

3 “(a) APPOINTMENT.—Members of selection boards  
4 convened under section 14101 shall be appointed by the  
5 Secretary of the military department concerned in accord-  
6 ance with this section. Promotion boards and special selec-  
7 tion boards shall consist of five or more officers. Continu-  
8 ation boards shall consist of three or more officers. All  
9 of the officers of any such selection board shall be of the  
10 same armed force as the officers under consideration by  
11 the board.

12 “(b) COMPOSITION.—At least one-half of the mem-  
13 bers of such a selection board shall be reserve officers, to  
14 include at least one reserve officer from each reserve com-  
15 ponent from which officers are to be considered by the  
16 board. Each member of a selection board must hold a per-  
17 manent grade higher than the grade of the officers under  
18 consideration by the board, and no member of a board  
19 may hold a grade below major or lieutenant commander.

20 “(c) REPRESENTATION OF COMPETITIVE CAT-  
21 EGORIES.—(1) Except as provided in paragraph (2), a se-  
22 lection board shall include at least one officer from each  
23 competitive category of officers to be considered by the  
24 board.

25 “(2) A selection board need not include an officer  
26 from a competitive category to be considered by the board

1 if there is no officer of that competitive category on the  
2 reserve active-status list or the active-duty list in a perma-  
3 nent grade higher than the grade of the officers to be con-  
4 sidered by the board and otherwise eligible to serve on the  
5 board. However, in such a case, the Secretary of the mili-  
6 tary department concerned, in his discretion, may appoint  
7 as a member of the board a retired officer of that competi-  
8 tive category who is in the same armed force as the offi-  
9 cers under consideration by the board who holds a higher  
10 grade than the grade of the officers under consideration.

11 “(d) PROHIBITION OF SERVICE ON CONSECUTIVE  
12 PROMOTION BOARDS.—No officer may be a member of  
13 two successive promotion boards convened under section  
14 14101(a) of this title for the consideration of officers of  
15 the same competitive category and grade if the second of  
16 the two boards is to consider any officer who was consid-  
17 ered and not recommended for promotion to the next  
18 higher grade by the first of the two boards.

19 **“§ 14103. Oath of members**

20 “Each member of a selection board convened under  
21 section 14101 of this title shall take an oath to perform  
22 the duties of a member of the board without prejudice or  
23 partiality, having in view both the special fitness of offi-  
24 cers and the efficiency of the member’s armed force.

1 **“§ 14104. Confidentiality of board proceedings**

2 “Except as otherwise authorized or required by law,  
3 the proceedings of a selection board convened under sec-  
4 tion 14101 of this title may not be disclosed to any person  
5 not a member of the board.

6 **“§ 14105. Notice of convening of promotion board**

7 “(a) REQUIRED NOTICE.—At least 30 days before a  
8 promotion board is convened under section 14101(a) of  
9 this title to consider officers in a grade and competitive  
10 category for promotion to the next higher grade, the Sec-  
11 retary concerned shall either (1) notify in writing the offi-  
12 cers eligible for consideration by the board for promotion  
13 regarding the convening of the board, or (2) issue a gen-  
14 eral written notice to the armed force concerned regarding  
15 the convening of the board.

16 “(b) CONTENT OF NOTICE.—A notice under sub-  
17 section (a) shall include the date on which the board is  
18 to convene and (except in the case of a vacancy promotion  
19 board) the name and date of rank of the junior officer,  
20 and of the senior officer, in the promotion zone as of the  
21 date of the notice.

22 **“§ 14106. Communication with board by officers**  
23 **under consideration**

24 “Subject to regulations prescribed by the Secretary  
25 of the military department concerned, an officer eligible  
26 for consideration by a promotion board convened under

1 section 14101(a) of this title who is in the promotion zone  
2 or above the promotion zone, or who is to be considered  
3 by a vacancy promotion board, may send a written com-  
4 munication to the board calling attention to any matter  
5 concerning the officer which the officer considers impor-  
6 tant to the officer's case. Any such communication shall  
7 be sent so as to arrive not later than the date on which  
8 the board convenes. The board shall give consideration to  
9 any timely communication under this section.

10 **“§ 14107. Information furnished by the Secretary con-**  
11 **cerned to promotion boards**

12 “(a) INTEGRITY OF THE PROMOTION SELECTION  
13 BOARD PROCESS.—(1) The Secretary of Defense shall  
14 prescribe regulations governing information furnished to  
15 selection boards convened under section 14101(a) of this  
16 title. Those regulations shall apply uniformly among the  
17 military departments. Any regulations prescribed by the  
18 Secretary of a military department to supplement those  
19 regulations may not take effect without the approval of  
20 the Secretary of Defense in writing.

21 “(2) No information concerning a particular eligible  
22 officer may be furnished to a selection board except for  
23 the following:

24 “(A) Information that is in the officer's official  
25 military personnel file and that is provided to the se-

1       lection board in accordance with the regulations pre-  
2       scribed by the Secretary of Defense pursuant to  
3       paragraph (1).

4           “(B) Other information that is determined by  
5       the Secretary of the military department concerned,  
6       after review by that Secretary in accordance with  
7       standards and procedures set out in the regulations  
8       prescribed by the Secretary of Defense pursuant to  
9       paragraph (1), to be substantiated, relevant informa-  
10      tion that could reasonably and materially affect the  
11      deliberations of the promotion board.

12          “(C) Subject to such limitations as may be pre-  
13      scribed in those regulations, information commu-  
14      nicated to the board by the officer in accordance  
15      with this section, section 14106 of this title (includ-  
16      ing any comment on information referred to in sub-  
17      paragraph (A) regarding that officer), or other  
18      applicable law.

19          “(D) A factual summary of the information de-  
20      scribed in subparagraphs (A), (B), and (C) that, in  
21      accordance with the regulations prescribed pursuant  
22      to paragraph (1) is prepared by administrative per-  
23      sonnel for the purpose of facilitating the work of the  
24      selection board.

1       “(3) Information provided to a promotion board in  
2 accordance with paragraph (2) shall be made available to  
3 all members of the board and shall be made a part of the  
4 record of the board. Communication of such information  
5 shall be in a written form or in the form of an audio or  
6 video recording. If a communication is in the form of an  
7 audio or video recording, a written transcription of the re-  
8 cording shall also be made a part of the record of the pro-  
9 motion board.

10       “(4) Paragraphs (2) and (3) do not apply to the fur-  
11 nishing of appropriate administrative processing informa-  
12 tion to the promotion board by an administrative staff des-  
13 ignated to assist the board, but only to the extent that  
14 oral communications are necessary to facilitate the work  
15 of the board.

16       “(5) Information furnished to a promotion board that  
17 is described in subparagraph (B), (C), or (D) of paragraph  
18 (2) may not be furnished to a later promotion board un-  
19 less—

20               “(A) the information has been properly placed  
21 in the official military personnel file of the officer  
22 concerned; or

23               “(B) the information is provided to the later se-  
24 lection board in accordance with paragraph (2).



1       “(6)(A) Before information described in paragraph  
2 (2)(B) regarding an eligible officer is furnished to a selec-  
3 tion board, the Secretary of the military department con-  
4 cerned shall ensure—

5               “(i) that such information is made available to  
6       such officer; and

7               “(ii) that the officer is afforded a reasonable  
8       opportunity to submit comments on that information  
9       to the promotion board.

10       “(B) If an officer cannot be given access to the infor-  
11 mation referred to in subparagraph (A) because of its clas-  
12 sification status, the officer shall, to the maximum extent  
13 practicable, be furnished an appropriate summary of the  
14 information.

15       “(b) INFORMATION TO BE FURNISHED.—The Sec-  
16 retary of the military department concerned shall furnish  
17 to a promotion board convened under section 14101(a) of  
18 this title the following:

19               “(1) In the case of a mandatory promotion  
20       board, the maximum number (as determined in ac-  
21       cordance with section 14307 of this title) of officers  
22       in each competitive category under consideration  
23       that the board is authorized to recommend for pro-  
24       motion to the next higher grade.

1           “(2) The name of each officer in each competi-  
2           tive category under consideration who is to be con-  
3           sidered by the board for promotion.

4           “(3) The pertinent records (as determined by  
5           the Secretary) of each officer whose name is fur-  
6           nished to the board.

7           “(4) Information or guidelines relating to the  
8           needs of the armed force concerned for officers hav-  
9           ing particular skills, including (except in the case of  
10          a vacancy promotion board) guidelines or informa-  
11          tion relating to either a minimum number or a maxi-  
12          mum number of officers with particular skills within  
13          a competitive category.

14          “(5) Such other information or guidelines as  
15          the Secretary concerned may determine to be nec-  
16          essary to enable the board to perform its functions.

17          “(c) LIMITATION ON MODIFYING FURNISHED INFOR-  
18          MATION.—Information or guidelines furnished to a selec-  
19          tion board under subsection (a) may not be modified, with-  
20          drawn, or supplemented after the board submits its report  
21          to the Secretary of the military department concerned pur-  
22          suant to section 14109(a) of this title. However, in the  
23          case of a report returned to a board pursuant to section  
24          14110(a) of this title for further proceedings because of  
25          a determination by the Secretary of the military depart-

1 ment concerned that the board acted contrary to law, reg-  
2 ulation, or guidelines, the Secretary may modify, with-  
3 draw, or supplement such information or guidelines as  
4 part of a written explanation to the board as provided in  
5 that section.

6 “(d) OFFICERS IN HEALTH-PROFESSIONS COMPETI-  
7 TIVE CATEGORIES.—The Secretary of each military de-  
8 partment, under uniform regulations prescribed by the  
9 Secretary of Defense, shall include in guidelines furnished  
10 to a promotion board convened under section 14101(a) of  
11 this title that is considering officers in a health-professions  
12 competitive category for promotion to a grade below colo-  
13 nel or, in the case of officers of the Naval Reserve, cap-  
14 tain, a direction that the board give consideration to an  
15 officer’s clinical proficiency and skill as a health profes-  
16 sional to at least as great an extent as the board gives  
17 to the officer’s administrative and management skills.

18 **“§ 14108. Recommendations by promotion boards**

19 “(a) RECOMMENDATION OF BEST QUALIFIED OFFI-  
20 CERS.—A promotion board convened under section  
21 14101(a) of this title shall recommend for promotion to  
22 the next higher grade those officers considered by the  
23 board whom the board considers best qualified for pro-  
24 motion within each competitive category considered by the  
25 board or, in the case of a vacancy promotion board, among

1 those officers considered to fill a vacancy. In determining  
2 those officers who are best qualified for promotion, the  
3 board shall give due consideration to the needs of the  
4 armed force concerned for officers with particular skills  
5 (as noted in the guidelines or information furnished the  
6 board under sections 14107 of this title).

7 “(b) MAJORITY REQUIRED.—A promotion board con-  
8 vened under section 14101(a) of this title may not rec-  
9 ommend an officer for promotion unless—

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

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

14 “(c) BOARD RECOMMENDATION REQUIRED FOR PRO-  
15 MOTION.—Except as otherwise provided by law, an officer  
16 on the reserve active-status list may not be promoted to  
17 a higher grade under chapter 1405 of this title unless the  
18 officer is considered and recommended for promotion to  
19 that grade by a promotion board convened under section  
20 14101(a) of this title (or by a special selection board con-  
21 vened under section 14502 of this title).

22 “(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—  
23 The recommendations of a promotion board may be dis-  
24 closed only in accordance with regulations prescribed by  
25 the Secretary of Defense. Those recommendations may

1 not be disclosed to a person not a member of the board  
2 (or a member of the administrative staff designated by  
3 the Secretary concerned to assist the board) until the writ-  
4 ten report of the recommendations of the board, required  
5 by section 14109 of this title, is signed by each member  
6 of the board.

7 “(e) PROHIBITION OF COERCION AND UNAUTHOR-  
8 IZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—  
9 The Secretary convening a promotion board under section  
10 14101(a) of this title, and an officer or other official exer-  
11 cising authority over any member of a selection board,  
12 may not—

13 “(1) censure, reprimand, or admonish the selec-  
14 tion board or any member of the board with respect  
15 to the recommendations of the board or the exercise  
16 of any lawful function within the authorized discre-  
17 tion of the board; or

18 “(2) attempt to coerce or, by any unauthorized  
19 means, influence any action of a promotion board or  
20 any member of a promotion board in the formulation  
21 of the board’s recommendations.

22 **“§ 14109. Reports of promotion boards: in general**

23 “(a) REPORT OF OFFICERS RECOMMENDED FOR  
24 PROMOTION.—Each promotion board convened under sec-  
25 tion 14101(a) of this title shall submit to the Secretary

1 of the military department concerned a report in writing  
2 containing a list of the names of the officers recommended  
3 by the board for promotion. The report shall be signed  
4 by each member of the board.

5 “(b) CERTIFICATION.—Each report under subsection  
6 (a) shall include a certification—

7 “(1) that the board has carefully considered the  
8 record of each officer whose name was furnished to  
9 the board; and

10 “(2) that, in the case of a promotion board con-  
11 vened under section 14101(a) of this title, in the  
12 opinion of a majority of the members of the board,  
13 the officers recommended for promotion by the  
14 board are best qualified for promotion to meet the  
15 needs of the armed force concerned (as noted in the  
16 guidelines or information furnished the board under  
17 section 14107 of this title) among those officers  
18 whose names were furnished to the selection board.

19 “(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A pro-  
20 motion board convened under section 14101(a) of this title  
21 shall include in its report to the Secretary concerned the  
22 name of any reserve officer before it for consideration for  
23 promotion whose record, in the opinion of a majority of  
24 the members of the board, indicates that the officer should  
25 be required to show cause for retention in an active status.

1       “(2) If such a report names an officer as having a  
2 record which indicates that the officer should be required  
3 to show cause for retention, the Secretary concerned may  
4 provide for the review of the record of that officer as pro-  
5 vided under regulations prescribed under section 14902 of  
6 this title.

7       **“§ 14110. Reports of promotion boards: review by Sec-**  
8                               **retary**

9       “(a) REVIEW OF REPORT.—Upon receipt of the re-  
10 port of a promotion board submitted under section  
11 14109(a) of this title, the Secretary of the military depart-  
12 ment concerned shall review the report to determine  
13 whether the board has acted contrary to law or regulation  
14 or to guidelines furnished the board under section  
15 14107(a) of this title. Following that review, unless the  
16 Secretary concerned makes a determination as described  
17 in subsection (b), the Secretary shall submit the report  
18 as required by section 14111 of this title.

19       “(b) RETURN OF REPORT FOR FURTHER PROCEED-  
20 INGS.—If, on the basis of a review of the report under  
21 subsection (a), the Secretary of the military department  
22 concerned determines that the board acted contrary to law  
23 or regulation or to guidelines furnished the board under  
24 section 14107(a) of this title, the Secretary shall return  
25 the report, together with a written explanation of the basis

1 for such determination, to the board for further proceed-  
2 ings. Upon receipt of a report returned by the Secretary  
3 concerned under this subsection, the selection board (or  
4 a subsequent selection board convened under section  
5 14101(a) of this title for the same grade and competitive  
6 category) shall conduct such proceedings as may be nec-  
7 essary in order to revise the report to be consistent with  
8 law, regulation, and such guidelines and shall resubmit the  
9 report, as revised, to the Secretary in accordance with sec-  
10 tion 14109 of this title.

11 **“§ 14111. Reports of selection boards: transmittal to**  
12 **President**

13 “(a) TRANSMITTAL TO PRESIDENT.—The Secretary  
14 concerned, after final review of the report of a selection  
15 board under section 14110 of this title, shall submit the  
16 report with the Secretary’s recommendations, to the Sec-  
17 retary of Defense for transmittal by the Secretary to the  
18 President for approval or disapproval. If the authority of  
19 the President to approve or disapprove the report of a pro-  
20 motion board is delegated to the Secretary of Defense,  
21 that authority may not be redelegated except to an official  
22 in the Office of the Secretary of Defense.

23 “(b) REMOVAL OF NAME FROM BOARD REPORT.—  
24 The name of an officer recommended for promotion by



1 a selection board may be removed from the report of the  
2 selection board only by the President.

3 “(c) RECOMMENDATIONS FOR REMOVAL OF SE-  
4 LECTED OFFICERS FROM REPORT.—If the Secretary of  
5 a military department or the Secretary of Defense makes  
6 a recommendation under this section that the name of an  
7 officer be removed from the report of a promotion board  
8 and the recommendation is accompanied by information  
9 that was not presented to that promotion board, that in-  
10 formation shall be made available to that officer. The offi-  
11 cer shall then be afforded a reasonable opportunity to sub-  
12 mit comments on that information to the officials making  
13 the recommendation and the officials reviewing the rec-  
14 ommendation. If an eligible officer cannot be given access  
15 to such information because of its classification status, the  
16 officer shall, to the maximum extent practicable, be pro-  
17 vided with an appropriate summary of the information.

18 **“§ 14112. Dissemination of names of officers selected**

19 “Upon approval by the President of the report of a  
20 promotion board, the names of the officers recommended  
21 for promotion by the promotion board (other than any  
22 name removed by the President) may be disseminated to  
23 the armed force concerned. If those names have not been  
24 sooner disseminated, those names (other than the name  
25 of any officer whose promotion the Senate failed to con-

1 firm) shall be promptly disseminated to the armed force  
 2 concerned upon confirmation by the Senate.

3 **“CHAPTER 1405—PROMOTIONS**

“Sec.

“14301. Eligibility for consideration for promotion: general rules.

“14302. Promotion zones.

“14303. Eligibility for consideration for promotion: minimum years of service  
 in grade.

“14304. Eligibility for consideration for promotion: maximum years of service  
 in grade.

“14305. Establishment of promotion zones: mandatory consideration for pro-  
 motion.

“14306. Establishment of promotion zones: Naval Reserve and Marine Corps  
 Reserve running mate system.

“14307. Numbers of officers to be recommended for promotion.

“14308. Promotions: how made.

“14309. Acceptance of promotion: oath of office.

“14310. Removal of officers from a list of officers recommended for promotion.

“14311. Delay of promotion: involuntary.

“14312. Delay of promotion: voluntary.

“14313. Authority to vacate promotions to grade of brigadier general or rear  
 admiral (lower half).

“14314. Army and Air Force commissioned officers: generals ceasing to occupy  
 positions commensurate with grade; state adjutants general.

“14315. Position vacancy promotions: Army and Air Force officers.

“14316. Army National Guard and Air National Guard: appointment to and  
 Federal recognition in a higher reserve grade after selection for  
 promotion.

“14317. Officers in transition to and from the active-status list or active-duty  
 list.

4 **“§ 14301. Eligibility for consideration for promotion:**  
 5 **general rules**

6 “(a) ONE-YEAR RULE.—An officer is eligible under  
 7 this chapter for consideration for promotion by a pro-  
 8 motion board convened under section 14101(a) of this title  
 9 only if—

10 “(1) the officer is on the reserve active-status  
 11 list of the Army, Navy, Air Force, or Marine Corps;  
 12 and

1           “(2) during the one-year period ending on the  
2           date of the convening of the promotion board the of-  
3           ficer has continuously performed service on either  
4           the reserve active-status list or the active-duty list  
5           (or on a combination of both lists).

6           “(b) REQUIREMENT FOR CONSIDERATION OF ALL  
7           OFFICERS IN AND ABOVE THE ZONE.—Whenever a pro-  
8           motion board (other than a vacancy promotion board) is  
9           convened under section 14101(a) of this title for consider-  
10          ation of officers in a competitive category who are eligible  
11          under this chapter for consideration for promotion to the  
12          next higher grade, each officer in the promotion zone, and  
13          each officer above the promotion zone, for that grade and  
14          competitive category shall be considered for promotion.

15          “(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGI-  
16          BLE TO BE CONSIDERED.—A promotion board convened  
17          under section 14101(a) of this title may not consider for  
18          promotion to the next higher grade—

19                 “(1) an officer whose name is on a promotion  
20                 list for that grade as a result of recommendation for  
21                 promotion to that grade by an earlier selection board  
22                 convened under that section or section 14502 of this  
23                 title or under chapter 36 of this title;

24                 “(2) an officer who has been approved for Fed-  
25                 eral recognition by a board convened under section

1       307 of title 32 and nominated by the President for  
2       promotion to the next higher grade as a reserve of  
3       the Army or of the Air Force as the case may be;  
4       or

5               “(3) an officer who has been nominated by the  
6       President for promotion to the next higher grade  
7       under any other provision of law.

8       “(d) OFFICERS BELOW THE ZONE.—The Secretary  
9       of the military department concerned may, by regulation,  
10      prescribe procedures to limit the officers to be considered  
11      by a selection board from below the promotion zone to  
12      those officers who are determined to be exceptionally well  
13      qualified for promotion. The regulations shall include cri-  
14      teria for determining which officers below the promotion  
15      zone are exceptionally well qualified for promotion.

16      “(e) RESERVE OFFICERS OF THE ARMY; CONSIDER-  
17      ATION FOR BRIGADIER GENERAL AND MAJOR GEN-  
18      ERAL.—In the case of officers of the Army, if the Sec-  
19      retary of the Army determines that vacancies are author-  
20      ized or anticipated in the reserve grades of major general  
21      or brigadier general for officers who are on the reserve  
22      active-status list and who are not assigned to units orga-  
23      nized to serve as a unit and the Secretary convenes a man-  
24      datory promotion board under section 14101(a) of this  
25      title to consider officers for promotion to fill such vacan-

1 cies, the Secretary may limit the officers to be considered  
2 by that board to those determined to be exceptionally well  
3 qualified for promotion under such criteria and procedures  
4 as the Secretary may by regulation prescribe.

5 “(f) CERTAIN RESERVE OFFICERS OF THE AIR  
6 FORCE.—A reserve officer of the Air Force who (1) is in  
7 the Air National Guard of the United States and holds  
8 the grade of lieutenant colonel, colonel, or brigadier gen-  
9 eral, or (2) is in the Air Force Reserve and holds the grade  
10 of colonel or brigadier general, is not eligible for consider-  
11 ation for promotion by a mandatory promotion board con-  
12 vened under section 14101(a) of this title.

13 “(g) NONCONSIDERATION OF OFFICERS SCHEDULED  
14 FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—  
15 The Secretary of the military department concerned may,  
16 by regulation, provide for the exclusion from consideration  
17 for promotion by a promotion board of any officer other-  
18 wise eligible to be considered by the board who has an  
19 established date for removal from the reserve active-status  
20 list that is not more than 90 days after the date on which  
21 the selection board for which the officer would otherwise  
22 be eligible is to be convened.

23 **“§ 14302. Promotion zones**

24 “(a) PROMOTION ZONES GENERALLY.—For purposes  
25 of this chapter, a promotion zone is an eligibility category

1 for the consideration of officers by a mandatory promotion  
2 board. A promotion zone consists of those officers on the  
3 reserve active-status list who are in the same grade and  
4 competitive category and who meet the requirements of  
5 both paragraphs (1) and (2) or the requirements of para-  
6 graph (3), as follows:

7           “(1)(A) In the case of officers in grades below  
8           colonel, for reserve officers of the Army, Air Force,  
9           and Marine Corps, or captain, for officers of the  
10          Naval Reserve, those who have neither (i) failed of  
11          selection for promotion to the next higher grade, nor  
12          (ii) been removed from a list of officers rec-  
13          ommended for promotion to that grade.

14          “(B) In the case of officers in the grade of colo-  
15          nel or brigadier general, for reserve officers of the  
16          Army and Marine Corps, or in the grade of captain  
17          or rear admiral (lower half), for reserve officers of  
18          the Navy, those who have neither (i) been rec-  
19          ommended for promotion to the next higher grade  
20          when considered in the promotion zone, nor (ii) been  
21          removed from a list of officers recommended for pro-  
22          motion to that grade.

23          “(2) Those officers who are senior to the officer  
24          designated by the Secretary of the military depart-  
25          ment concerned to be the junior officer in the pro-

1 motion zone eligible for consideration for promotion  
2 to the next higher grade and the officer so des-  
3 ignated.

4 “(3) Those officers who—

5 “(A) have been selected from below the  
6 zone for promotion to the next higher grade or  
7 by a vacancy promotion board, but whose  
8 names were removed from the list of officers  
9 recommended for promotion to that next higher  
10 grade resulting from that selection;

11 “(B) have not failed of selection for pro-  
12 motion to that next higher grade; and

13 “(C) are senior to the officer designated by  
14 the Secretary of the military department con-  
15 cerned to be the junior officer in the promotion  
16 zone eligible for consideration for promotion  
17 to that next higher grade and the officer so  
18 designated.

19 “(b) OFFICERS ABOVE THE ZONE.—Officers on the  
20 reserve active-status list are considered to be above the  
21 promotion zone for a grade and competitive category if  
22 they—

23 “(1) are eligible for consideration for promotion  
24 to the next higher grade;

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

4           “(3) are senior to the senior officer in the pro-  
5       motion zone for that competitive category.

6       “(c) OFFICERS BELOW THE ZONE.—Officers on the  
7       reserve active-status list are considered to be below the  
8       promotion zone for a grade and competitive category if  
9       they—

10           “(1) are eligible for consideration for promotion  
11       to the next higher grade;

12           “(2) are in the same grade as those officers in  
13       the promotion zone for that competitive category;  
14       and

15           “(3) are junior to the junior officer in the pro-  
16       motion zone for that competitive category.

17       **“§ 14303. Eligibility for consideration for promotion:**  
18               **minimum years of service in grade**

19       “(a) OFFICERS IN PAY GRADES O–1 AND O–2.—An  
20       officer who is on the reserve active-status list of the Army,  
21       Navy, Air Force, or Marine Corps and holds a permanent  
22       appointment in the grade of second lieutenant or first lieu-  
23       tenant as a reserve officer of the Army, Air Force, or Ma-  
24       rine Corps, or in the grade of ensign or lieutenant (junior  
25       grade) as a reserve officer of the Navy, may not be pro-



1 moted to the next higher grade, or granted Federal rec-  
2 ognition in that grade, until the officer has completed the  
3 following years of service in grade:

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

7           “(2) Two years, in the case of an officer hold-  
8       ing a permanent appointment in the grade of first  
9       lieutenant or lieutenant (junior grade).

10       “(b) OFFICERS IN PAY GRADES O-3 AND ABOVE.—  
11 Subject to subsection (d), an officer who is on the reserve  
12 active-status list of the Army, Air Force, or Marine Corps  
13 and holds a permanent appointment in a grade above first  
14 lieutenant, or who is on the reserve active-status list of  
15 the Navy in a grade above lieutenant (junior grade), may  
16 not be considered for selection for promotion to the next  
17 higher grade, or examined for Federal recognition in the  
18 next higher grade, until the officer has completed the fol-  
19 lowing years of service in grade:

20           “(1) Three years, in the case of an officer of  
21       the Army, Air Force, or Marine Corps holding a per-  
22       manent appointment in the grade of captain, major,  
23       or lieutenant colonel or in the case of a reserve of-  
24       ficer of the Navy holding a permanent appoint-

1       ment in the grade of lieutenant, lieutenant com-  
2       mander, or commander.

3           “(2) One year, in the case of an officer of the  
4       Army, Air Force, or Marine Corps holding a perma-  
5       nent appointment in the grade of colonel or briga-  
6       dier general or in the case of a reserve officer of the  
7       Navy holding a permanent appointment in the grade  
8       of captain or rear admiral (lower half).

9       This subsection does not apply to an adjutant general or  
10      assistant adjutant general of a State or to an appointment  
11      in a higher grade which is based upon a specific provision  
12      of law.

13       “(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD  
14      IN GRADE.—The Secretary concerned may prescribe a pe-  
15      riod of service in grade for eligibility for promotion, in the  
16      case of officers to whom subsection (a) applies, or for eligi-  
17      bility for consideration for promotion, in the case of offi-  
18      cers to whom subsection (b) applies, that is longer than  
19      the applicable period specified in that subsection.

20       “(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE  
21      CONSIDERATIONS.—Subject to section 14307(b) of this  
22      title, the Secretary of the military department concerned  
23      may waive subsection (b) to the extent necessary to ensure  
24      that officers described in paragraph (1) of that subsection  
25      have at least two opportunities for consideration for pro-

1 motion to the next higher grade as officers below the pro-  
 2 motion zone.

3 **“§ 14304. Eligibility for consideration for promotion:**  
 4 **maximum years of service in grade**

5 “(a) CONSIDERATION FOR PROMOTION WITHIN  
 6 SPECIFIED TIMES.—(1) Officers described in paragraph  
 7 (3) shall be placed in the promotion zone for that officer’s  
 8 grade and competitive category, and shall be considered  
 9 for promotion to the next higher grade by a promotion  
 10 board convened under section 14101(a) of this title, far  
 11 enough in advance of completing the years of service in  
 12 grade specified in the following table so that, if the officer  
 13 is recommended for promotion, the promotion may be ef-  
 14 fective on or before the date on which the officer will com-  
 15 plete those years of service.

| “Current Grade                                       | Maximum years of<br>service in grade |
|------------------------------------------------------|--------------------------------------|
| “First lieutenant or Lieutenant (junior grade) ..... | 5 years                              |
| “Captain or Navy Lieutenant .....                    | 7 years                              |
| “Major or Lieutenant commander .....                 | 7 years                              |

16 “(2) Paragraph (1) is subject to subsections (a), (b),  
 17 and (c) of section 14301 of this title and applies without  
 18 regard to vacancies.

19 “(3) Paragraph (1) applies to an officer who is on  
 20 the reserve active-status list of the Army, Navy, Air Force,  
 21 or Marine Corps and who holds a permanent appointment  
 22 in the grade of first lieutenant, captain, or major as a  
 23 reserve of the Army, Air Force, or Marine Corps, or to

1 an officer on the reserve active-status list of the Navy in  
2 the grade of lieutenant (junior grade), lieutenant, or lieu-  
3 tenant commander as a reserve of the Navy, and who,  
4 while holding that appointment, has not been considered  
5 by a selection board convened under section 14101(a) or  
6 14502 of this title for promotion to the next higher grade.

7 “(b) PROMOTION DATE.—An officer holding a per-  
8 manent grade specified in the table in subsection (a) who  
9 is recommended for promotion to the next higher grade  
10 by a selection board the first time the officer is considered  
11 for promotion while in or above the promotion zone and  
12 who is placed on an approved promotion list established  
13 under section 14308(a) of this title shall (if not promoted  
14 sooner or removed from that list by the President or by  
15 reason of declination) be promoted, without regard to the  
16 existence of a vacancy, on the date on which the officer  
17 completes the maximum years of service in grade specified  
18 in subsection (a). The preceding sentence is subject to the  
19 limitations of section 12011 of this title.

20 “(c) WAIVER AUTHORITY FOR NAVY AND MARINE  
21 CORPS RUNNING MATE SYSTEM.—If the Secretary of the  
22 Navy establishes promotion zones for officers on the re-  
23 serve active-status list of the Navy or the Marine Corps  
24 Reserve in accordance with a running mate system under  
25 section 14306 of this title, the Secretary may waive the

1 requirements of subsection (a) to the extent the Secretary  
2 considers necessary in any case in which the years of serv-  
3 ice for promotion, or for consideration for promotion,  
4 within those zones will exceed the maximum years of serv-  
5 ice in grade specified in subsection (a).

6 **“§ 14305. Establishment of promotion zones: manda-**  
7 **tory consideration for promotion**

8 “(a) ESTABLISHMENT OF ZONE.—Before convening  
9 a mandatory promotion board under section 14101(a) of  
10 this title, the Secretary of the military department con-  
11 cerned shall establish a promotion zone for officers serving  
12 in each grade and competitive category to be considered  
13 by the board.

14 “(b) NUMBER IN THE ZONE.—The Secretary con-  
15 cerned shall determine the number of officers in the pro-  
16 motion zone for officers serving in any grade and competi-  
17 tive category from among officers who are eligible for pro-  
18 motion in that grade and competitive category under the  
19 provisions of sections 14303 and 14304 of this title and  
20 who are otherwise eligible for promotion.

21 “(c) FACTORS IN DETERMINING NUMBER IN THE  
22 ZONE.—The Secretary’s determination under subsection  
23 (b) shall be made on the basis of an estimate of the follow-  
24 ing:

1           “(1) The number of officers needed in that  
2 competitive category in the next higher grade in  
3 each of the next five years.

4           “(2) In the case of a promotion zone for offi-  
5 cers to be promoted to a grade to which the maxi-  
6 mum years of in grade criteria established in section  
7 14304 of this title apply, the number of officers in  
8 that competitive category who are required to be  
9 considered for selection for promotion to the next  
10 higher grade under that section.

11           “(3) The number of officers that should be  
12 placed in the promotion zone in each of the next five  
13 years to provide to officers in those years relatively  
14 similar opportunities for promotion.

15 **“§ 14306. Establishment of promotion zones: Naval**  
16 **Reserve and Marine Corps Reserve run-**  
17 **ning mate system**

18           “(a) AUTHORITY OF SECRETARY OF THE NAVY.—  
19 The Secretary of the Navy may by regulation implement  
20 section 14305 of this title by requiring that the promotion  
21 zone for consideration of officers on the reserve active-sta-  
22 tus list of the Navy or the Marine Corps for promotion  
23 to the next higher grade be determined in accordance with  
24 a running mate system as provided in subsection (b).

1       “(b) ASSIGNMENT OF RUNNING MATES.—An officer  
2 to whom a running mate system applies shall be assigned  
3 as a running mate an officer of the same grade on the  
4 active-duty list of the same armed force. The officer on  
5 the reserve active-status list is in the promotion zone and  
6 is eligible for consideration for promotion to the next high-  
7 er grade by a selection board convened under section  
8 14101(a) of this title when that officer’s running mate is  
9 in or above the promotion zone established for that offi-  
10 cer’s grade under chapter 36 of this title.

11       “(c) CONSIDERATION OF OFFICERS BELOW THE  
12 ZONE UNDER A RUNNING MATE SYSTEM.—If the Sec-  
13 retary of the Navy authorizes the selection of officers for  
14 promotion from below the promotion zone in accordance  
15 with section 14307 of this title, the number of officers to  
16 be considered from below the zone may be established  
17 through the application of the running mate system or  
18 otherwise as the Secretary determines to be appropriate  
19 to meet the needs of the Navy or Marine Corps.

20       **“§ 14307. Number of officers to be recommended for**  
21                               **promotion**

22       “(a) DETERMINATION OF MAXIMUM NUMBER.—Be-  
23 fore convening a promotion board under section 14101(a)  
24 of this title for a grade and competitive category (other  
25 than a vacancy promotion board), the Secretary of the

1 military department concerned, under regulations pre-  
2 scribed by the Secretary of Defense, shall determine the  
3 maximum number of officers in that grade and competi-  
4 tive category that the board may recommend for pro-  
5 motion. The Secretary shall make the determination under  
6 the preceding sentence of the maximum number that may  
7 be recommended with a view to having on the reserve ac-  
8 tive-status list a sufficient number of officers in each  
9 grade and competitive category to meet the needs of the  
10 armed force concerned for officers on that list. In order  
11 to make that determination, the Secretary shall determine  
12 (1) the number of positions needed to accomplish mission  
13 objectives which require officers of such competitive cat-  
14 egory in the grade to which the board will recommend offi-  
15 cers for promotion, (2) the estimated number of officers  
16 needed to fill vacancies in such positions during the period  
17 in which it is anticipated that officers selected for pro-  
18 motion will be promoted, (3) the number of officers au-  
19 thorized by the Secretary of the military department con-  
20 cerned to serve on the reserve active-status list in the  
21 grade and competitive category under consideration, and  
22 (4) any statutory limitation on the number of officers in  
23 any grade or category (or combination thereof) authorized  
24 to be on the reserve active-status list.



1       “(b) BELOW-THE-ZONE SELECTIONS.—(1) The Sec-  
2 retary of the military department concerned may, when  
3 the needs of the armed force concerned require, authorize  
4 the consideration of officers in the grade of captain, major,  
5 or lieutenant colonel on the reserve active-status list of the  
6 Army or Air Force, in a grade above first lieutenant on  
7 the reserve active-status list of the Marine Corps, or in  
8 a grade above lieutenant (junior grade) on the reserve ac-  
9 tive-status list of the Navy, for promotion to the next high-  
10 er grade from below the promotion zone.

11       “(2) When selection from below the promotion zone  
12 is authorized, the Secretary shall establish the number of  
13 officers that may be recommended for promotion from  
14 below the promotion zone in each competitive category to  
15 be considered. That number may not exceed the number  
16 equal to 10 percent of the maximum number of officers  
17 that the board is authorized to recommend for promotion  
18 in such competitive category, except that the Secretary of  
19 Defense may authorize a greater number, not to exceed  
20 15 percent of the total number of officers that the board  
21 is authorized to recommend for promotion, if the Sec-  
22 retary of Defense determines that the needs of the armed  
23 force concerned so require. If the maximum number deter-  
24 mined under this paragraph is less than one, the board

1 may recommend one officer for promotion from below the  
2 promotion zone.

3 “(3) The number of officers recommended for pro-  
4 motion from below the promotion zone does not increase  
5 the maximum number of officers that the board is author-  
6 ized to recommend for promotion under subsection (a).

7 **“§ 14308. Promotions: how made**

8 “(a) PROMOTION LIST.—When the report of a selec-  
9 tion board convened under section 14101(a) or 14502 of  
10 this title is approved by the President, the Secretary of  
11 the military department concerned shall place the names  
12 of all officers selected for promotion within a competitive  
13 category on a single list for that competitive category, to  
14 be known as a promotion list, in the order of seniority  
15 of those officers on the reserve active-status list.

16 “(b) PROMOTION; HOW MADE; ORDER.—(1) Officers  
17 on a promotion list for a competitive category shall be pro-  
18 moted in the manner specified in section 12203 of this  
19 title.

20 “(2) Officers on a promotion list for a competitive  
21 category shall be promoted to the next higher grade in  
22 accordance with regulations prescribed by the Secretary  
23 of the military department concerned. Except as provided  
24 in section 14311, 14312, or 14502(e) of this title or in  
25 subsection (d) or (e), promotions shall be made in the

1 order in which the names of officers appear on the pro-  
2 motion list and after officers previously selected for pro-  
3 motion in that competitive category have been promoted.

4 “(3) Officers to be promoted to the grade of first lieu-  
5 tenant or lieutenant (junior grade) shall be promoted in  
6 accordance with regulations prescribed by the Secretary  
7 of the military department concerned.

8 “(c) DATE OF RANK.—(1) The date of rank of an  
9 officer appointed to a higher grade under this section is  
10 determined under section 741(d)(2) of this title.

11 “(2) Except as specifically authorized by law, a re-  
12 serve officer is not entitled to additional pay or allowances  
13 if the effective date of the officer’s promotion is adjusted  
14 to reflect a date earlier than the actual date of the officer’s  
15 promotion.

16 “(d) OFFICERS WITH RUNNING MATES.—An officer  
17 to whom a running mate system applies under section  
18 14306 of this title and who is selected for promotion is  
19 eligible for promotion to the grade for which selected when  
20 the officer who is that officer’s running mate becomes eli-  
21 gible for promotion under chapter 36 of this title. The ef-  
22 fective date of the promotion of that officer shall be the  
23 same as that of the officer’s running mate in the grade  
24 to which the running mate is promoted.

1       “(e) ARMY RESERVE AND AIR FORCE RESERVE PRO-  
2 MOTIONS TO FILL VACANCIES.—Subject to this section  
3 and to section 14311(e) of this title, and under regulations  
4 prescribed by the Secretary of the military department  
5 concerned—

6           “(1) an officer in the Army Reserve or the Air  
7 Force Reserve who is on a promotion list as a result  
8 of selection for promotion by a mandatory promotion  
9 board convened under section 14101(a) of this title  
10 or a board convened under section 14502 or chapter  
11 36 of this title may be promoted at any time to fill  
12 a vacancy in a position to which the officer is as-  
13 signed; and

14          “(2) an officer in the Army Reserve or the Air  
15 Force Reserve who is on a promotion list as a result  
16 of selection for promotion by a vacancy promotion  
17 board convened under section 14101(a) of this title  
18 may be promoted at any time to fill the vacancy for  
19 which the officer was selected.

20       “(f) EFFECTIVE DATE OF PROMOTION AFTER FED-  
21 ERAL RECOGNITION.—The effective date of a promotion  
22 of a reserve commissioned officer of the Army or the Air  
23 Force who is extended Federal recognition in the next  
24 higher grade in the Army National Guard or the Air Na-  
25 tional Guard under section 307 or 310 of title 32 shall

1 be the date on which such Federal recognition in that  
2 grade is so extended.

3 “(g) ARMY AND AIR FORCE GENERAL OFFICER PRO-  
4 MOTIONS.—A reserve officer of the Army who is on a pro-  
5 motion list for promotion to the grade of brigadier general  
6 or major general as a result of selection by a vacancy pro-  
7 motion board may be promoted to that grade only to fill  
8 a vacancy in that grade in a unit of the Army Reserve  
9 that is organized to serve as a unit and that has attained  
10 the strength prescribed by the Secretary of the Army. A  
11 reserve officer of the Air Force who is on a promotion  
12 list for promotion to the grade of brigadier general or  
13 major general as a result of selection by a vacancy pro-  
14 motion board may be promoted to that grade only to fill  
15 a vacancy in the Air Force Reserve in that grade.

16 **“§ 14309. Acceptance of promotion; oath of office**

17 “(a) ACCEPTANCE.—An officer who is appointed to  
18 a higher grade under this chapter shall be considered to  
19 have accepted the appointment on the date on which the  
20 appointment is made unless the officer expressly declines  
21 the appointment or is granted a delay of promotion under  
22 section 14312 of this title.

23 “(b) OATH.—An officer who has served continuously  
24 since taking the oath of office prescribed in section 3331

1 of title 5 is not required to take a new oath upon appoint-  
2 ment to a higher grade under this chapter.

3 **“§ 14310. Removal of officers from a list of officers**  
4 **recommended for promotion**

5 “(a) REMOVAL BY PRESIDENT.—The President may  
6 remove the name of any officer from a promotion list at  
7 any time before the date on which the officer is promoted.

8 “(b) REMOVAL FOR WITHHOLDING OF SENATE AD-  
9 VICE AND CONSENT.—If the Senate does not give its ad-  
10 vice and consent to the appointment to the next higher  
11 grade of an officer whose name is on a list of officers ap-  
12 proved by the President for promotion (except in the case  
13 of promotions to a reserve grade to which appointments  
14 may be made by the President alone), the name of that  
15 officer shall be removed from the list.

16 “(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An  
17 officer whose name is removed from a list under sub-  
18 section (a) or (b) continues to be eligible for consideration  
19 for promotion. If that officer is recommended for pro-  
20 motion by the next selection board convened for that offi-  
21 cer’s grade and competitive category and the officer is pro-  
22 moted, the Secretary of the military department concerned  
23 may, upon the promotion, grant the officer the same date  
24 of rank, the same effective date for the pay and allowances  
25 of the grade to which promoted, and the same position

1 on the reserve active-status list, as the officer would have  
2 had if the officer's name had not been removed from the  
3 list.

4 **“§ 14311. Delay of promotion: involuntary**

5 “(a) DELAY DURING INVESTIGATIONS AND PRO-  
6 CEEDINGS.—(1) Under regulations prescribed by the Sec-  
7 retary of the military department concerned, the appoint-  
8 ment of an officer to a higher grade may be delayed if  
9 any of the following applies before the date on which the  
10 appointment would otherwise be made:

11 “(A) Sworn charges against the officer have  
12 been received by an officer exercising general court-  
13 martial jurisdiction over the officer and the charges  
14 have not been disposed of.

15 “(B) An investigation is being conducted to de-  
16 termine whether disciplinary action of any kind  
17 should be brought against the officer.

18 “(C) A board of officers has been convened  
19 under section 14903 of this title to review the record  
20 of the officer.

21 “(D) A criminal proceeding in a Federal or  
22 State court of competent jurisdiction is pending  
23 against the officer.

24 “(2) If disciplinary action is not taken against the  
25 officer, if the charges against the officer are withdrawn

1 or dismissed, if the officer is not separated by the Sec-  
2 retary of the military department concerned as the result  
3 of having been required to show cause for retention, or  
4 if the officer is acquitted of the charges, as the case may  
5 be, then (unless action to delay the officer's appointment  
6 to the higher grade has been taken under subsection (b))  
7 the officer shall be retained on the promotion list, list of  
8 officers found qualified for Federal recognition, or list of  
9 officers nominated by the President to the Senate for ap-  
10 pointment in a higher reserve grade and shall, upon pro-  
11 motion to the next higher grade, have the same date of  
12 rank, the same effective date for the pay and allowances  
13 of the grade to which promoted, and the same position  
14 on the reserve active-status list as the officer would have  
15 had if no delay had intervened, unless the Secretary con-  
16 cerned determines that the officer was unqualified for pro-  
17 motion for any part of the delay. If the Secretary makes  
18 such a determination, the Secretary may adjust such date  
19 of rank, effective date of pay and allowances, and position  
20 on the reserve active-status list as the Secretary considers  
21 appropriate under the circumstances.

22       “(b) DELAY FOR LACK OF QUALIFICATIONS.—Under  
23 regulations prescribed by the Secretary of the military de-  
24 partment concerned, the appointment of an officer to a  
25 higher grade may also be delayed if there is cause to be-



1 lieve that the officer is mentally, physically, morally, or  
2 professionally unqualified to perform the duties of the  
3 grade to which selected. If the Secretary concerned later  
4 determines that the officer is qualified for promotion to  
5 the higher grade, the officer shall be retained on the pro-  
6 motion list, the list of officers found qualified for Federal  
7 recognition, or list of officers nominated by the President  
8 to the Senate for appointment in a higher reserve grade,  
9 and shall, upon promotion to that grade, have the same  
10 date or rank, the same effective date for pay and allow-  
11 ances of that grade, and the same position on the reserve  
12 active-status list as the officer would have had if no delay  
13 had intervened, unless the Secretary concerned determines  
14 that the officer was unqualified for promotion for any part  
15 of the delay. If the Secretary makes such a determination,  
16 the Secretary may adjust such date of rank, effective date  
17 of pay and allowances, and position on the reserve active-  
18 status list as the Secretary considers appropriate under  
19 the circumstances.

20       “(c) NOTICE TO OFFICER.—(1) The appointment of  
21 an officer to a higher grade may not be delayed under  
22 subsection (a) or (b) unless the officer is given written  
23 notice of the grounds for the delay. The preceding sen-  
24 tence does not apply if it is impracticable to give the offi-  
25 cer written notice before the date on which the appoint-

1 ment to the higher grade would otherwise take effect, but  
2 in such a case the written notice shall be given as soon  
3 as practicable.

4 “(2) An officer whose promotion is delayed under  
5 subsection (a) or (b) shall be given an opportunity to make  
6 a written statement to the Secretary of the military de-  
7 partment concerned in response to the action taken. The  
8 Secretary shall give consideration to any such statement.

9 “(d) MAXIMUM LENGTH OF DELAY IN PRO-  
10 MOTION.—The appointment of an officer to a higher grade  
11 may not be delayed under subsection (a) or (b) for more  
12 than six months after the date on which the officer would  
13 otherwise have been promoted unless the Secretary con-  
14 cerned specifies a further period of delay. An officer’s ap-  
15 pointment may not be delayed more than 90 days after  
16 final action has been taken in any criminal case against  
17 the officer in a Federal or State court of competent juris-  
18 diction or more than 90 days after final action has been  
19 taken in any court-martial case against the officer. Except  
20 for court action, a promotion may not be delayed more  
21 than 18 months after the date on which the officer would  
22 otherwise have been promoted.

23 “(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER  
24 STRENGTH IN GRADE OR DUTIES TO WHICH AS-  
25 SIGNED.—(1) Under regulations prescribed by the Sec-

1   retary of Defense, the promotion of a reserve officer on  
2   the reserve active-status list who is serving on active duty,  
3   or who is on full-time National Guard duty for administra-  
4   tion of the reserves or the National Guard, to a grade to  
5   which the strength limitations of section 12011 of this title  
6   apply shall be delayed if necessary to ensure compliance  
7   with those strength limitations. The delay shall expire  
8   when the Secretary determines that the delay is no longer  
9   required to ensure such compliance.

10       “(2) The promotion of an officer described in para-  
11   graph (1) shall also be delayed while the officer is on duty  
12   described in that paragraph unless the Secretary of the  
13   military department concerned, under regulations pre-  
14   scribed by the Secretary of Defense, determines that the  
15   duty assignment of the officer requires a higher grade  
16   than the grade currently held by the officer.

17       “(3) The date of rank and position on the reserve  
18   active-status list of a reserve officer whose promotion to  
19   or Federal recognition in the next higher grade was de-  
20   layed under paragraph (1) or (2) solely as the result of  
21   the limitations imposed under the regulations prescribed  
22   by the Secretary of Defense or contained in section 12011  
23   of this title shall be the date on which the officer would  
24   have been promoted to or recognized in the higher grade  
25   had such limitations not existed.

1       “(4) If an officer whose promotion is delayed under  
2 paragraph (1) or (2) completes the period of active duty  
3 or full-time National Guard duty that the officer is re-  
4 quired by law or regulation to perform as a member of  
5 a reserve component, the officer may request release from  
6 active duty or full-time National Guard duty. If the re-  
7 quest is granted, the officer’s promotion shall be effective  
8 upon the officer’s release from such duty. The date of rank  
9 and position on the reserve active-status list of the officer  
10 shall be the date the officer would have been promoted  
11 to or recognized in the higher grade had the limitations  
12 imposed under regulations prescribed by the Secretary of  
13 Defense contained in section 12011 of this title not ex-  
14 isted. If an officer whose promotion is delayed under para-  
15 graph (1) or (2) has not completed the period of active  
16 duty or full-time National Guard duty that the officer is  
17 required by law or regulation to perform as a member of  
18 a reserve component, the officer may be retained on active  
19 duty or on full-time National Guard duty in the grade in  
20 which the officer was serving before the officer’s being  
21 found qualified for Federal recognition or the officer’s se-  
22 lection for the promotion until the officer completes that  
23 required period of duty.

1 **“§ 14312. Delay of promotion: voluntary**

2 “(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1)

3 The Secretary of the military department concerned may,  
4 by regulation, permit delays of a promotion of an officer  
5 who is recommended for promotion by a mandatory selec-  
6 tion board convened under section 14101(a) or a special  
7 selection board convened under section 14502 of this title  
8 at the request of the officer concerned. Such delays, in  
9 the case of any promotion, may extend for any period not  
10 to exceed three years from the date on which the officer  
11 would otherwise be promoted.

12 “(2) Regulations under this section shall provide  
13 that—

14 “(A) a request for such a delay of promotion  
15 must be submitted by the officer concerned before  
16 the delay may be approved; and

17 “(B) denial of such a request shall not be con-  
18 sidered to be a failure of selection for promotion un-  
19 less the officer declines to accept a promotion under  
20 circumstances set forth in subsection (c).

21 “(b) EFFECT OF APPROVAL OF REQUEST.—If a re-  
22 quest for delay of a promotion under subsection (a) is ap-  
23 proved, the officer’s name shall remain on the promotion  
24 list during the authorized period of delay (unless removed  
25 under any other provision of law). Upon the end of the  
26 period of the authorized delay, or at any time during such

1 period, the officer may accept the promotion, which shall  
2 be effective on the date of acceptance. Such an acceptance  
3 of a promotion shall be made in accordance with regula-  
4 tions prescribed under this section.

5 “(C) EFFECT OF DECLINING A PROMOTION.—An of-  
6 ficer’s name shall be removed from the promotion list and,  
7 if the officer is serving in a grade below colonel or, in the  
8 case of the Navy, captain, the officer shall be considered  
9 to have failed of selection for promotion if any of the  
10 following applies:

11 “(1) The Secretary concerned has not author-  
12 ized voluntary delays of promotion under subsection  
13 (a) to the grade concerned and the officer declines  
14 to accept an appointment to a higher grade.

15 “(2) The Secretary concerned has authorized  
16 voluntary delays of promotion under subsection (a),  
17 but has denied the request of the officer for a delay  
18 of promotion and the officer then declines to accept  
19 an appointment to a higher grade.

20 “(3) The Secretary concerned has approved the  
21 request of an officer for a delay of promotion and,  
22 upon the end of the period of delay authorized in ac-  
23 cordance with regulations prescribed under sub-  
24 section (a), the officer then declines to accept an  
25 appointment to a higher grade.

1 **“§ 14313. Authority to vacate promotions to grade of**  
2 **brigadier general or rear admiral (lower**  
3 **half)**

4 “(a) AUTHORITY.—The President may vacate the ap-  
5 pointment of a reserve officer to the grade of brigadier  
6 general or rear admiral (lower half) if the period of time  
7 during which the officer has served in that grade after  
8 promotion to that grade is less than 18 months.

9 “(b) EFFECT OF PROMOTION BEING VACATED.—Ex-  
10 cept as provided in subsection (c), an officer whose pro-  
11 motion to the grade of brigadier general is vacated under  
12 this section holds the grade of colonel as a reserve of the  
13 armed force of which the officer is a member. An officer  
14 whose promotion to the grade of rear admiral (lower half)  
15 is vacated under this section holds the grade of captain  
16 in the Naval Reserve. Upon assuming the lower grade, the  
17 officer shall have the same position on the reserve active-  
18 status list as the officer would have had if the officer had  
19 not served in the higher grade.

20 “(c) SPECIAL RULE FOR OFFICERS SERVING AS AD-  
21 JUTANT GENERAL.—In the case of an officer serving as  
22 an adjutant general or assistant adjutant general whose  
23 promotion to the grade of brigadier general is vacated  
24 under this section, the officer then holds the reserve grade  
25 held by that officer immediately before the officer’s

1 appointment as adjutant general or assistant adjutant  
2 general.

3 **“§ 14314. Army and Air Force commissioned officers:**  
4 **generals ceasing to occupy positions com-**  
5 **mensurate with grade; State adjutants**  
6 **general**

7 “(a) GENERAL OFFICERS.—Within 30 days after a  
8 reserve officer of the Army or the Air Force on the reserve  
9 active-status list in a general officer grade ceases to oc-  
10 cupy a position commensurate with that grade (or com-  
11 mensurate with a higher grade), the Secretary concerned  
12 shall transfer or discharge the officer in accordance with  
13 whichever of the following the officer elects:

14 “(1) Transfer the officer in grade to the Re-  
15 tired Reserve, if the officer is qualified and applies  
16 for the transfer.

17 “(2) Transfer the officer in grade to the inac-  
18 tive status list of the Standby Reserve, if the officer  
19 is qualified.

20 “(3) Discharge the officer from the officer’s re-  
21 serve appointment and, if the officer is qualified and  
22 applies therefor, appoint the officer in the reserve  
23 grade held by the officer as a reserve officer before  
24 the officer’s appointment in a general officer grade.



1           “(4) Discharge the officer from the officer’s re-  
2       serve appointment.

3           “(b) ADJUTANTS GENERAL.—If a reserve officer who  
4       is federally recognized in the Army National Guard or the  
5       Air National Guard solely because of the officer’s appoint-  
6       ment as adjutant general or assistant adjutant general of  
7       a State ceases to occupy that position, the Secretary con-  
8       cerned, not later than 30 days after the date on which  
9       the officer ceases to occupy that position, shall—

10           “(1) withdraw that officer’s Federal recogni-  
11       tion; and

12           “(2) require that the officer—

13           “(A) be transferred in grade to the Retired  
14       Reserve, if the officer is qualified and applies  
15       for the transfer;

16           “(B) be discharged from the officer’s re-  
17       serve appointment and appointed in the reserve  
18       grade held by the officer as a reserve officer of  
19       the Air Force immediately before the appoint-  
20       ment of that officer as adjutant general or as-  
21       sistant adjutant general, if the officer is quali-  
22       fied and applies for that appointment; or

23           “(C) be discharged from the officer’s re-  
24       serve appointment.

1       “(c) CREDIT FOR SERVICE IN GRADE.—An officer  
2 who is appointed under subsection (a)(3) or (b)(2)(B)  
3 shall be credited with an amount of service in the grade  
4 in which appointed that is equal to the amount of prior  
5 service in an active status in that grade and in any higher  
6 grade.

7       **“§ 14315. Position vacancy promotions: Army and Air**  
8                               **Force officers**

9       “(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR  
10 VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—  
11 A reserve officer of the Army who is in the Army Reserve,  
12 or a Reserve officer of the Air Force who is in the Air  
13 Force Reserve, who is on the reserve active-status list in  
14 the grade of first lieutenant, captain, major, or lieutenant  
15 colonel is eligible for consideration for promotion to the  
16 next higher grade under this section if each of the follow-  
17 ing applies:

18               “(1) The officer is occupying or, as determined  
19 by the Secretary concerned, is available to occupy a  
20 position in the same competitive category as the offi-  
21 cer and for which a grade higher than the one held  
22 by that officer is authorized.

23               “(2) The officer is fully qualified to meet all re-  
24 quirements for the position as established by the  
25 Secretary of the military department concerned.

1           “(3) The officer has held the officer’s present  
2           grade for the minimum period of service prescribed  
3           in section 14303 of this title for eligibility for con-  
4           sideration for promotion to the higher grade.

5           “(b) CONSIDERATION FOR VACANCY PROMOTION TO  
6           BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A re-  
7           serve officer of the Army who is in the Army Reserve and  
8           on the reserve active-status list in the grade of colonel or  
9           brigadier general may be considered for promotion to the  
10          next higher grade under this section if the officer (A) is  
11          assigned to the duties of a general officer of the next high-  
12          er reserve grade in a unit of the Army Reserve organized  
13          to serve as a unit, (B) has held the officer’s present grade  
14          for the minimum period of service prescribed in section  
15          14303 of this title for eligibility for consideration for pro-  
16          motion to the higher grade, and (C) meets the standards  
17          for consideration prescribed by the Secretary of the Army.

18          “(2) A reserve officer of the Air Force who is in the  
19          Air Force Reserve and on the reserve active-status list in  
20          the grade of colonel or brigadier general may be consid-  
21          ered for promotion to the next higher grade under this  
22          section if the officer (A) is assigned to the duties of a  
23          general officer of the next higher reserve grade, and (B)  
24          meets the standards for consideration prescribed by the  
25          Secretary of the Air Force.

1       “(c) VACANCY PROMOTION BOARDS.—Consideration  
2 for promotion under this section shall be by a vacancy pro-  
3 motion board convened under section 14101(a) of this  
4 title.

5       “(d) EFFECT OF NONSELECTION.—An officer who is  
6 considered for promotion under this section and is not se-  
7 lected shall not be considered to have failed of selection  
8 for promotion.

9       “(e) SPECIAL RULE FOR OFFICERS FAILED OF SE-  
10 LECTION.—A reserve officer of the Army or the Air Force  
11 who is considered as failed of selection for promotion  
12 under section 14501 of this title to a grade may be consid-  
13 ered for promotion under this section or, if selected, pro-  
14 moted to that grade only if the Secretary of the military  
15 department concerned finds that the officer is the only  
16 qualified officer available to fill the vacancy. The Secretary  
17 concerned may not delegate the authority under the pre-  
18 ceding sentence.

19       **“§ 14316. Army National Guard and Air National**  
20                   **Guard: appointment to and Federal rec-**  
21                   **ognition in a higher reserve grade after**  
22                   **selection for promotion**

23       “(a) OPPORTUNITY FOR PROMOTION TO FILL A  
24 VACANBY IN THE GUARD.—If an officer of the Army Na-  
25 tional Guard of the United States or the Air National

1 Guard of the United States is recommended by a manda-  
2 tory selection board convened under section 14101(a) or  
3 a special selection board convened under section 14502 of  
4 this title for promotion to the next higher grade, an oppor-  
5 tunity shall be given to the appropriate authority of the  
6 State to promote that officer to fill a vacancy in the Army  
7 National Guard or the Air National Guard of that juris-  
8 diction.

9 “(b) AUTOMATIC FEDERAL RECOGNITION.—An offi-  
10 cer of the Army National Guard of the United States or  
11 the Air National Guard of the United States who is on  
12 a promotion list for promotion to the next higher grade  
13 as a result of selection for promotion as described in sub-  
14 section (a) and who before the date of promotion is ap-  
15 pointed in that higher grade to fill a vacancy in the Army  
16 National Guard or Air National Guard shall—

17 “(1) be extended Federal recognition in that  
18 grade, without the examination prescribed in section  
19 307 of title 32; and

20 “(2) subject to section 14311(e) of this title, be  
21 promoted to that reserve grade effective on the date  
22 of the officer’s appointment in that grade in the  
23 Army National Guard or Air National Guard.

24 “(c) NATIONAL GUARD OFFICERS FAILED OF SE-  
25 LECTION.—An officer who is considered as failed of selec-

tion for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

“(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer’s Federal recognition in the officer’s reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

**“§ 14317. Officers in transition to and from the active-status list or active-duty list**

“(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for

1 Federal recognition in the higher grade under title 32, but  
2 before being promoted, the officer—

3 “(1) shall be treated as if the officer had not  
4 been considered and recommended for promotion by  
5 the selection board or examined and been found  
6 qualified for Federal recognition; and

7 “(2) may not be placed on a promotion list or  
8 promoted to the higher grade after returning to an  
9 active status,

10 unless the officer is again recommended for promotion by  
11 a selection board convened under chapter 36 of this title  
12 or section 14101(a) or 14502 of this title or examined for  
13 Federal recognition under title 32.

14 “(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY  
15 LIST.—A reserve officer who is on a promotion list as a  
16 result of selection for promotion by a mandatory pro-  
17 motion board convened under section 14101(a) or a spe-  
18 cial selection board convened under section 14502 of this  
19 title and who before being promoted is placed on the ac-  
20 tive-duty list of the same armed force and placed in the  
21 same competitive category shall, under regulations pre-  
22 scribed by the Secretary of Defense, be placed on an ap-  
23 propriate promotion list for officers on the active-duty list  
24 established under chapter 36 of this title.

1       “(c) OFFICERS ON A PROMOTION LIST REMOVED  
2 FROM ACTIVE-DUTY LIST.—An officer who is on the ac-  
3 tive-duty list and is on a promotion list as the result of  
4 selection for promotion by a selection board convened  
5 under chapter 36 of this title and who before being pro-  
6 moted is removed from the active-duty list and placed on  
7 the reserve active-status list of the same armed force and  
8 in the same competitive category (including a regular offi-  
9 cer who on removal from the active-duty list is appointed  
10 as a reserve officer and placed on the reserve active-status  
11 list) shall, under regulations prescribed by the Secretary  
12 of Defense, be placed on an appropriate promotion list es-  
13 tablished under this chapter.

14       “(d) OFFICERS SELECTED FOR POSITION VACAN-  
15 CIES.—If a reserve officer is ordered to active duty (other  
16 than active duty for training) or full-time National Guard  
17 duty (other than full-time National Guard duty for train-  
18 ing only) after being recommended for promotion under  
19 section 14314 of this title to fill a position vacancy or ex-  
20 amined for Federal recognition under title 32, and before  
21 being promoted to fill that vacancy, the officer shall not  
22 be promoted while serving such active duty or full-time  
23 National Guard duty unless the officer is ordered to active  
24 duty as a member of the unit in which the vacancy exists  
25 when that unit is ordered to active duty. If, under this



1 subsection, the name of an officer is removed from a list  
 2 of officers recommended for promotion, the officer shall  
 3 be treated as if the officer had not been considered for  
 4 promotion or examined for Federal recognition.

5 “(e) Under regulations prescribed by the Secretary  
 6 of the military department concerned, a reserve officer  
 7 who is not on the active-duty list and who is ordered to  
 8 active duty in time of war or national emergency may, if  
 9 eligible, be considered for promotion by a mandatory pro-  
 10 motion board convened under section 14101(a) or a spe-  
 11 cial selection board convened under section 14502 of this  
 12 title for not more than two years from the date the officer  
 13 is ordered to active duty unless the President suspends  
 14 the operation of this section under the provisions of sec-  
 15 tion 10213 or 644 of this title.

16 **“CHAPTER 1407—FAILURE OF SELECTION FOR**  
 17 **PROMOTION AND INVOLUNTARY SEPARATION**

“Sec.

“14501. Failure of selection for promotion.

“14502. Special selection boards: correction of errors.

“14503. Discharge of officers with less than five years of commissioned service  
 or found not qualified for promotion to first lieutenant or lieu-  
 tenant (junior grade).

“14504. Effect of failure of selection for promotion: reserve first lieutenants of  
 the Army, Air Force, and Marine Corps and reserve lieutenants  
 (junior grade) of the Navy.

“14505. Effect of failure of selection for promotion: reserve captains of the  
 Army, Air Force, and Marine Corps and reserve lieutenants of  
 the Navy.

“14506. Effect of failure of selection for promotion: reserve majors of the  
 Army, Air Force, and Marine Corps and lieutenant command-  
 ers of the Navy.

“14507. Removal from the active-status list for years of service: reserve lieuten-  
 ant colonels and colonels of the Army, Air Force, and Marine  
 Corps and reserve commanders and captains of the Navy.

- “14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
- “14509. Separation at age 60: reserve officers below brigadier general or rear admiral (lower half).
- “14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half).
- “14511. Separation at age 62: major generals and rear admirals.
- “14512. Separation at age 64: officers holding certain offices.
- “14513. Separation for failure of selection of promotion.
- “14514. Discharge or retirement for years of service or after selection for early removal.
- “14515. Discharge or retirement for age.
- “14516. Separation to be considered involuntary.
- “14517. Entitlement of officers discharged under this chapter to separation pay.

# **1 “§ 14501. Failure of selection for promotion**

2       “(a) An officer on the reserve active-status list in a  
 3 grade below the grade of colonel or, in the case of an offi-  
 4 cer in the Naval Reserve, captain who is in or above the  
 5 promotion zone established for that officer’s grade and  
 6 competitive category and who (1) is considered but not  
 7 recommended for promotion (other than by a vacancy pro-  
 8 motion board), or (2) declines to accept a promotion for  
 9 which selected (other than by a vacancy promotion board),  
 10 shall be considered to have failed of selection for pro-  
 11 motion.

12       “(b) OFFICERS TWICE FAILED OF SELECTION.—An  
 13 officer shall be considered for all purposes to have twice  
 14 failed of selection for promotion if any of the following  
 15 applies:

16               “(1) The officer is considered but not rec-  
 17 ommended for promotion a second time by a manda-  
 18 tory promotion board convened under section

1       14101(a) or a special selection board convened  
2       under section 14502(a) of this title.

3           “(2) The officer declines to accept a promotion  
4       for which recommended by a mandatory promotion  
5       board convened under section 14101(a) or a special  
6       selection board convened under section 14502(a) or  
7       14502(b) of this title after previously failing of se-  
8       lection or after the officer’s name was removed from  
9       the report of a selection board under section  
10      14111(b) or from a promotion list under section  
11      14310 of this title after recommendation for pro-  
12      motion by an earlier selection board described in  
13      subsection (a).

14          “(3) The officer’s name has been removed from  
15      the report of a selection board under section  
16      14111(b) or from a promotion list under section  
17      14310 of this title after recommendation by a man-  
18      datory promotion board convened under section  
19      14101(a) or by a special selection board convened  
20      under section 14502(a) or 14502(b) of this title  
21      and—

22           “(A) the officer is not recommended for  
23      promotion by the next mandatory promotion  
24      board convened under section 14101(a) or spe-  
25      cial selection board convened under section

1           14502(a) of this title for that officer's grade  
2           and competitive category; or

3           “(B) the officer's name is again removed  
4           from the report of a selection board under sec-  
5           tion 14111(b) or from a promotion list under  
6           section 14310 of this title.

7   **“§ 14502. Special selection boards: correction of er-**  
8           **rors**

9           “(a) OFFICERS NOT CONSIDERED BECAUSE OF AD-  
10   MINISTRATIVE ERROR.—(1) In the case of an officer or  
11   former officer who the Secretary of the military depart-  
12   ment concerned determines was not considered for selec-  
13   tion for promotion from in or above the promotion zone  
14   by a mandatory promotion board convened under section  
15   14101(a) of this title because of administrative error, the  
16   Secretary concerned shall convene a special selection board  
17   under this subsection to determine whether such officer  
18   or former officer should be recommended for promotion.  
19   Any such board shall be convened under regulations pre-  
20   scribed by the Secretary of Defense and shall be appointed  
21   and composed in accordance with section 14102 of this  
22   title and shall include the representation of competitive  
23   categories required by that section. The members of a  
24   board convened under this subsection shall be required to

1 take an oath in the same manner as prescribed in section  
2 14103 of this title.

3 “(2) A special selection board convened under this  
4 subsection shall consider the record of the officer or  
5 former officer as that record would have appeared to the  
6 promotion board that should have considered the officer  
7 or former officer. That record shall be compared with a  
8 sampling of the records of those officers of the same grade  
9 and competitive category who were recommended for pro-  
10 motion and those officers of the same grade and competi-  
11 tive category who were not recommended for promotion  
12 by that board.

13 “(3) If a special selection board convened under para-  
14 graph (1) does not recommend for promotion an officer  
15 or former officer in a grade below the grade of colonel  
16 or, in the case of an officer or former officer of the Navy,  
17 captain, whose name was referred to it for consideration,  
18 the officer or former officer shall be considered to have  
19 failed of selection for promotion.

20 “(b) OFFICERS CONSIDERED BUT NOT SELECTED;  
21 MATERIAL ERROR.—(1) In the case of an officer or  
22 former officer who was eligible for promotion and was con-  
23 sidered for selection for promotion from in or above the  
24 promotion zone under this chapter by a selection board  
25 but was not selected, the Secretary of the military depart-

1 ment concerned may, under regulations prescribed by the  
2 Secretary of Defense, convene a special selection board  
3 under this subsection to determine whether the officer or  
4 former officer should be recommended for promotion, if  
5 the Secretary determines that—

6           “(A) the action of the selection board that con-  
7 sidered the officer or former officer was contrary to  
8 law or involved material error of fact or material ad-  
9 ministrative error; or

10           “(B) the selection board did not have before it  
11 for its consideration material information.

12           “(2) A special selection board convened under para-  
13 graph (1) shall be appointed and composed in accordance  
14 with section 14102 of this title (including the representa-  
15 tion of competitive categories required by that section),  
16 and the members of such a board shall take an oath in  
17 the same manner as prescribed in section 14103 of this  
18 title.

19           “(3) Such board shall consider the record of the offi-  
20 cer or former officer as that record, if corrected, would  
21 have appeared to the selection board that considered the  
22 officer or former officer. That record shall be compared  
23 with a sampling of the records of those officers of the  
24 same grade and competitive category who were rec-  
25 ommended for promotion and those officers of the same

1 grade and competitive category who were not rec-  
2 ommended for promotion by that board.

3 “(4) If a special selection board convened under para-  
4 graph (1) does not recommend for promotion an officer  
5 or former officer in the grade of lieutenant colonel or com-  
6 mander or below whose name was referred to it for consid-  
7 eration, the officer or former officer shall be considered  
8 to have failed of selection for promotion by the board  
9 which did consider the officer but incurs no additional fail-  
10 ure of selection for promotion from the action of the spe-  
11 cial selection board.

12 “(c) REPORT.—Each special selection board con-  
13 vened under this section shall submit to the Secretary of  
14 the military department concerned a written report, signed  
15 by each member of the board, containing the name of each  
16 officer it recommends for promotion and certifying that  
17 the board has considered carefully the record of each offi-  
18 cer whose name was referred to it.

19 “(d) APPLICABLE PROVISIONS.—The provisions of  
20 sections 14104, 14109, 14110, and 14111 of this title  
21 apply to the report and proceedings of a special selection  
22 board convened under this section in the same manner as  
23 they apply to the report and proceedings of a promotion  
24 board convened under section 14101(a) of this title.

1       “(e) APPOINTMENT OF OFFICERS RECOMMENDED  
2 FOR PROMOTION.—(1) An officer whose name is placed  
3 on a promotion list as a result of recommendation for pro-  
4 motion by a special selection board convened under this  
5 section, shall, as soon as practicable, be appointed to the  
6 next higher grade in accordance with the law and policies  
7 which would have been applicable had he been rec-  
8 ommended for promotion by the board which should have  
9 considered or which did consider him.

10       “(2) An officer who is promoted to the next higher  
11 grade as the result of the recommendation of a special  
12 selection board convened under this section shall, upon  
13 such promotion, have the same date of rank, the same ef-  
14 fective date for the pay and allowances of that grade, and  
15 the same position on the reserve active-status list as the  
16 officer would have had if the officer had been rec-  
17 ommended for promotion to that grade by the selection  
18 board which should have considered, or which did con-  
19 sider, the officer.

20       “(3) If the report of a special selection board con-  
21 vened under this section, as approved by the President,  
22 recommends for promotion to the next higher grade an  
23 officer not currently eligible for promotion or a former of-  
24 ficer whose name was referred to it for consideration, the  
25 Secretary concerned may act under section 1552 of this



1 title to correct the military record of the officer or former  
2 officer to correct an error or remove an injustice resulting  
3 from not being selected for promotion by the board which  
4 should have considered, or which did consider, the officer.

5 “(f) TIME LIMITS FOR CONSIDERATION.—The Sec-  
6 retary of Defense may prescribe by regulation the cir-  
7 cumstances under which consideration by a special selec-  
8 tion board is contingent upon application for consideration  
9 by an officer or former officer and time limits within which  
10 an officer or former officer must make such application  
11 in order to be considered by a special selection board  
12 under this section.

13 “(g) LIMITATION OF OTHER JURISDICTION.—No  
14 official or court of the United States shall have power or  
15 jurisdiction—

16 “(1) over any claim based in any way on the  
17 failure of an officer or former officer of the armed  
18 forces to be selected for promotion by a selection  
19 board convened under chapter 1403 of this title  
20 until—

21 “(A) the claim has been referred to a spe-  
22 cial selection board by the Secretary concerned  
23 and acted upon by that board; or

1           “(B) the claim has been rejected by the  
2           Secretary without consideration by a special se-  
3           lection board; or

4           “(2) to grant any relief on such a claim unless  
5           the officer or former officer has been selected for  
6           promotion by a special selection board convened  
7           under this section to consider the officer’s claim.

8           “(h) JUDICIAL REVIEW.—(1) A court of the United  
9           States may review a determination by the Secretary con-  
10          cerned under subsection (a)(1), (b)(1), or (e)(3) not to  
11          convene a special selection board. If a court finds the de-  
12          termination to be arbitrary or capricious, not based on  
13          substantial evidence, or otherwise contrary to law, it shall  
14          remand the case to the Secretary concerned, who shall  
15          provide for consideration of the officer or former officer  
16          by a special selection board under this section.

17          “(2) If a court finds that the action of a special selec-  
18          tion board which considers an officer or former officer was  
19          contrary to law or involved material error of fact or mate-  
20          rial administrative error, it shall remand the case to the  
21          Secretary concerned, who shall provide the officer or  
22          former officer reconsideration by a new special selection  
23          board.

24          “(i) DESIGNATION OF BOARDS.—The Secretary of  
25          the military department concerned may designate a pro-

1 motion board convened under section 14101(a) of this title  
2 as a special selection board convened under this section.  
3 A board so designated may function in both capacities.

4 **“§ 14503. Discharge of officers with less than five**  
5 **years of commissioned service or found**  
6 **not qualified for promotion to first lieu-**  
7 **tenant or lieutenant (junior grade)**

8 “(a) AUTHORIZED DISCHARGES.—The Secretary of  
9 the military department concerned may discharge any re-  
10 serve officer who—

11 “(1) has less than five years of service in an ac-  
12 tive status as a commissioned officer; or

13 “(2) is serving in the grade of second lieutenant  
14 or ensign and has been found not qualified for pro-  
15 motion to the grade of first lieutenant or lieutenant  
16 (junior grade).

17 “(b) TIME FOR DISCHARGE.—(1) An officer de-  
18 scribed in subsection (a)(2)—

19 “(A) may be discharged at any time after being  
20 found not qualified for promotion; and

21 “(B) if not sooner discharged, shall be dis-  
22 charged at the end of the 18-month period beginning  
23 on the date on which the officer is first found not  
24 qualified for promotion.

1 “(2) Paragraph (1) shall not apply if the officer is  
2 sooner promoted.

3 “(c) REGULATIONS.—Discharges under this section  
4 shall be made under regulations prescribed by the Sec-  
5 retary of Defense and may be made without regard to sec-  
6 tion 12645 of this title.

7 **“§ 14504. Effect of failure of selection for promotion:**  
8 **reserve first lieutenants of the Army, Air**  
9 **Force, and Marine Corps and reserve**  
10 **lieutenants (junior grade) of the Navy**

11 “(a) GENERAL RULE.—A first lieutenant on the re-  
12 serve active-status list of the Army, Air Force, or Marine  
13 Corps or a lieutenant (junior grade) on the reserve active-  
14 status list of the Navy who has failed of selection for pro-  
15 motion to the next higher grade for the second time and  
16 whose name is not on a list of officers recommended for  
17 promotion to the next higher grade shall be separated in  
18 accordance with section 14513 of this title not later than  
19 the first day of the seventh month after the month in  
20 which the President approves the report of the board  
21 which considered the officer for the second time.

22 “(b) EXCEPTIONS.—Subsection (a) does not apply  
23 (1) in the case of an officer retained as provided by regula-  
24 tion of the Secretary of the military department concerned  
25 in order to meet planned mobilization needs for a period

1 not in excess of 24 months beginning with the date on  
2 which the President approves the report of the selection  
3 board which resulted in the second failure, or (2) as pro-  
4 vided in section 12646 or 12686 of this title.

5 **“§ 14505. Effect of failure of selection for promotion:**  
6 **reserve captains of the Army, Air Force,**  
7 **and Marine Corps and reserve lieuten-**  
8 **ants of the Navy**

9 “Unless retained as provided in section 12646 or  
10 12686 of this title, a captain on the reserve active-status  
11 list of the Army, Air Force, or Marine Corps or a lieuten-  
12 ant on the reserve active-status list of the Navy who has  
13 failed of selection for promotion to the next higher grade  
14 for the second time and whose name is not on a list of  
15 officers recommended for promotion to the next higher  
16 grade and who has not been selected for continuation on  
17 the reserve active-status list under section 14701 of this  
18 title, shall be separated in accordance with section 14513  
19 of this title not later than the first day of the seventh  
20 month after the month in which the President approves  
21 the report of the board which considered the officer for  
22 the second time.

1 **“§ 14506. Effect of failure of selection for promotion:**  
2 **reserve majors of the Army, Air Force**  
3 **and Marine Corps and reserve lieutenant**  
4 **commanders of the Navy**

5 “Unless retained as provided in section 12646,  
6 12686, 14701, or 14702 of this title, each reserve officer  
7 of the Army, Navy, Air Force, or Marine Corps who holds  
8 the grade of major or lieutenant commander who has  
9 failed of selection to the next higher grade for the second  
10 time and whose name is not on a list of officers rec-  
11 ommended for promotion to the next higher grade shall,  
12 if not earlier removed from the reserve active-status list,  
13 be removed from that list in accordance with section  
14 14513 of this title on the first day of the month after  
15 the month in which the officer completes 20 years of com-  
16 missioned service.

17 **“§ 14507. Removal from the reserve active-status list**  
18 **for years of service: reserve lieutenant**  
19 **colonels and colonels of the Army, Air**  
20 **Force, and Marine Corps and reserve**  
21 **commanders and captains of the Navy**

22 “(a) LIEUTENANT COLONELS AND COMMANDERS.—  
23 Unless continued on the reserve active-status list under  
24 section 14701 or 14702 of this title or retained as pro-  
25 vided in section 12646 or 12686 of this title, each reserve  
26 officer of the Army, Navy, Air Force, or Marine Corps

1 who holds the grade of lieutenant colonel or commander  
2 and who is not on a list of officers recommended for pro-  
3 motion to the next higher grade shall (if not earlier re-  
4 moved from the reserve active-status list) be removed from  
5 that list under section 14514 of this title on the first day  
6 of the month after the month in which the officer com-  
7 pletes 28 years of commissioned service.

8 “(b) COLONELS AND NAVY CAPTAINS.—Unless con-  
9 tinued on the reserve active-status list under section  
10 14701 or 14702 of this title or retained as provided in  
11 section 12646 or 12686 of this title, each reserve officer  
12 of the Army, Air Force, or Marine Corps who holds the  
13 grade of colonel, and each reserve officer of the Navy who  
14 holds the grade of captain, and who is not on a list of  
15 officers recommended for promotion to the next higher  
16 grade shall (if not earlier removed from the reserve active-  
17 status list) be removed from that list under section 14514  
18 of this title on the first day of the month after the month  
19 in which the officer completes 30 years of commissioned  
20 service. This subsection does not apply to the adjutant  
21 general or assistant adjutants general of a State.

1 **“§ 14508. Removal from the reserve active-status list**  
2 **for years of service: reserve general and**  
3 **flag officers**

4 “(a) THIRTY YEARS SERVICE OR FIVE YEARS IN  
5 GRADE.—Unless retired, transferred to the Retired Re-  
6 serve, or discharged at an earlier date, each reserve officer  
7 of the Army, Air Force, or Marine Corps in the grade of  
8 brigadier general who has not been recommended for pro-  
9 motion to the grade of major general, and each reserve  
10 officer of the Navy in the grade of rear admiral (lower  
11 half) who has not been recommended for promotion to  
12 rear admiral shall, 30 days after completion of 30 years  
13 of commissioned service or on the fifth anniversary of the  
14 date of the officer’s appointment in the grade of brigadier  
15 general or rear admiral (lower half), whichever is later,  
16 be separated in accordance with section 14514 of this title.

17 “(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS  
18 IN GRADE.—Unless retired, transferred to the Retired Re-  
19 serve, or discharged at an earlier date, each reserve officer  
20 of the Army, Air Force, or Marine Corps in the grade of  
21 major general, and each reserve officer of the Navy in the  
22 grade of rear admiral, shall, 30 days after completion of  
23 35 years of commissioned service or on the fifth anniver-  
24 sary of the date of the officer’s appointment in the grade  
25 of major general or rear admiral, whichever is later, be  
26 separated in accordance fith section 14514 of this title.



1       “(c) RETENTION OF BRIGADIER GENERALS.—A re-  
2 serve officer of the Army or Air Force in the grade of  
3 brigadier general who would otherwise be removed from  
4 an active status under this subsection (a) may, in the dis-  
5 cretion of the Secretary of the Army or the Secretary of  
6 the Air Force, as the case may be, be retained in an active  
7 status, but not later than the date on which the officer  
8 becomes 60 years of age. Not more than 10 officers of  
9 the Army and not more than 10 officers of the Air Force  
10 may be retained under this subsection at any one time.

11       “(d) RETENTION OF MAJOR GENERALS.—A reserve  
12 officer of the Army or Air Force in the grade of major  
13 general who would otherwise be removed from an active  
14 status under this subsection (b) may, in the discretion of  
15 the Secretary of the Army or the Secretary of the Air  
16 Force, as the case may be, be retained in an active status,  
17 but not later than the date on which the officer becomes  
18 62 years of age. Not more than 10 officers of the Army  
19 and not more than 10 officers of the Air Force may be  
20 retained under this subsection at any one time.

21       “(e) EXCEPTION FOR STATE ADJUTANTS GENERAL  
22 AND ASSISTANT ADJUTANTS GENERAL.—This section  
23 does not apply to an officer who is the adjutant general  
24 or assistant adjutant general of a State.

1 **“§ 14509. Separation at age 60: reserve officers in**  
2 **grades below brigadier general or rear**  
3 **admiral (lower half)**

4 “Each reserve officer of the Army, Navy, Air Force,  
5 or Marine Corps in a grade below brigadier general or rear  
6 admiral (lower half) who has not been recommended for  
7 promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that  
8 officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

12 **“§ 14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)**

14 “Unless retired, transferred to the Retired Reserve,  
15 or discharged at an earlier date, each reserve officer of  
16 the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve  
17 rear admiral (lower half) of the Navy who has not been  
18 recommended for promotion to the grade of rear admiral,  
19 except an officer covered by section 14512 of this title,  
20 shall be separated in accordance with section 14515 of this  
21 title on the last day of the month in which the officer be-  
22 comes 60 years of age.

1 **“§ 14511. Separation at age 62: major generals and**  
2 **rear admirals**

3 “Unless retired, transferred to the Retired Reserve,  
4 or discharged at an earlier date, each reserve officer of  
5 the Army, Air Force, or Marine Corps in the grade of  
6 major general and each reserve officer of the Navy in the  
7 grade of rear admiral, except an officer covered by section  
8 14512 of this title, shall be separated in accordance with  
9 section 14515 of this title on the last day of the month  
10 in which the officer becomes 62 years of age.

11 **“§ 14512. Separation at age 64: officers holding cer-**  
12 **tain offices**

13 “(a) ARMY AND AIR FORCE.—Unless retired, trans-  
14 ferred to the Retired Reserve, or discharged at an earlier  
15 date, a reserve officer of the Army or Air Force who is  
16 Chief of the National Guard Bureau, an adjutant general,  
17 or if a reserve officer of the Army, commanding general  
18 of the troops of a State, shall on the last day of the month  
19 in which the officer becomes 64 years of age, be separated  
20 in accordance with section 14515 of this title.

21 “(b) NAVY AND MARINE CORPS.—The Secretary of  
22 the Navy may defer the retirement under section 14510  
23 or 14511 of a reserve officer of the Navy in a grade above  
24 captain or a reserve officer of the Marine Corps in a grade  
25 above colonel and retain the officer in an active status  
26 until the officer becomes 64 years of age. Not more than

1 10 officers may be so deferred at any one time, distributed  
2 between the Naval Reserve and the Marine Corps Reserve  
3 as the Secretary determines.

4 **“§ 14513. Separation for failure of selection of pro-**  
5 **motion**

6 “Each reserve officer of the Army, Navy, Air Force,  
7 or Marine Corps who is in an active status and whose re-  
8 moval from an active status or from a reserve active-status  
9 list is required by section 14504, 14505, or 14506 of this  
10 title shall (unless the officer’s separation is deferred or  
11 the officer is continued in an active status under another  
12 provision of law) not later than the date specified in those  
13 sections—

14 “(1) be transferred to an inactive status if the  
15 Secretary concerned determines that the officer has  
16 skills which may be required to meet the mobiliza-  
17 tion needs of the officer’s armed force;

18 “(2) be transferred to the Retired Reserve, if  
19 the officer is qualified and applies for such transfer;  
20 or

21 “(3) if the officer is not transferred to an inac-  
22 tive status or to the Retired Reserve, be discharged  
23 from the officer’s reserve appointment.

1 **“§ 14514. Discharge or retirement for years of service**  
2 **or after selection for early removal**

3 “Each reserve officer of the Army, Navy, Air Force,  
4 or Marine Corps who is in an active status and who is  
5 required to be removed from an active status or from a  
6 reserve active-status list, as the case may be, under section  
7 14507, 14508, 14704, or 14705 of this title (unless the  
8 officer is sooner separated or the officer’s separation is  
9 deferred or the officer is continued in an active status  
10 under another provision of law), in accordance with those  
11 sections, shall—

12 “(1) be transferred to the Retired Reserve, if  
13 the officer is qualified and applies for such transfer;  
14 or

15 “(2) if the officer is not qualified or does not  
16 apply for such transfer, be discharged from the offi-  
17 cer’s reserve appointment.

18 **“§ 14515. Discharge or retirement for age**

19 “Each reserve officer of the Army, Navy, Air Force,  
20 or Marine Corps who is in an active status or on an inac-  
21 tive status list and who reaches the maximum age speci-  
22 fied in section 14509, 14510, 14511, or 14512 of this title  
23 for the officer’s grade or position shall (unless the officer  
24 is sooner separated or the officer’s separation is deferred  
25 or the officer is continued in an active status under an-

1 other provision of law) not later than the last day of the  
 2 month in which the officer reaches that maximum age—

3 “(1) be transferred to the Retired Reserve, if  
 4 the officer is qualified and applies for such transfer;  
 5 or

6 “(2) if the officer is not qualified or does not  
 7 apply for transfer to the Retired Reserve, be dis-  
 8 charged from the officer’s reserve appointment.

9 **“§ 14516. Separation to be considered involuntary**

10 “The separation of an officer pursuant to section  
 11 14513, 14514, or 14515 of this title shall be considered  
 12 to be an involuntary separation for purposes of any other  
 13 provision of law.

14 **“§ 14517. Entitlement of officers discharged under**  
 15 **this chapter to separation pay**

16 “An officer who is discharged under section 14513,  
 17 14514, or 14515 of this title is entitled to separation pay  
 18 under section 1174 of this title if otherwise eligible under  
 19 that section.

20 **“CHAPTER 1409—CONTINUATION OF OFFICERS**  
 21 **ON THE RESERVE ACTIVE-STATUS LIST AND**  
 22 **SELECTIVE EARLY REMOVAL**

“Sec.

“14701. Selection of officers for continuation on the reserve active-status list.

“14702. Retention on reserve active-status list of certain officers until age 60.

“14703. Authority to retain chaplains and officers in medical specialties until  
 specified age.

“14704. Selective early removal from the reserve active-status list.

“14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.

“14706. Computation of total years of service.

1 **“§ 14701. Selection of officers for continuation on the**  
2 **reserve active-status list**

3 “(a) CONSIDERATION FOR CONTINUATION.—(1)

4 Upon application, a reserve officer of the Army, Navy, Air  
5 Force, or Marine Corps who is required to be removed  
6 from the reserve active-status list under section 14505,  
7 14506, or 14507 of this title may, subject to the needs  
8 of the service and to section 14509 of this title, be consid-  
9 ered for continuation on the reserve active-status list by  
10 a selection board convened under section 14101(b) of this  
11 title.

12 “(2) A reserve officer who holds the grade of captain  
13 in the Army, Air Force, or Marine Corps or the grade  
14 of lieutenant in the Navy and who is subject to separation  
15 under section 14513 of this title may not be continued  
16 on the reserve active-status list under this subsection for  
17 a period which extends beyond the last day of the month  
18 in which the officer completes 20 years of commissioned  
19 service.

20 “(3) A reserve officer who holds the grade of major  
21 or lieutenant commander and who is subject to separation  
22 under section 14513 of this title may not be continued  
23 on the reserve active-status list under this subsection for  
24 a period which extends beyond the last day of the month

1 in which the officer completes 24 years of commissioned  
2 service.

3 “(4) A reserve officer who holds the grade of lieuten-  
4 ant colonel or commander and who is subject to separation  
5 under section 14514 of this title may not be continued  
6 on the reserve active-status list under this subsection for  
7 a period which extends beyond the last day of the month  
8 in which the officer completes 33 years of commissioned  
9 service.

10 “(5) A reserve officer who holds the grade of colonel  
11 in the Army, Air Force, or Marine Corps or the grade  
12 of captain in the Navy and who is subject to separation  
13 under section 14514 of this title may not be continued  
14 on the reserve active-status list under this subsection for  
15 a period which extends beyond the last day of the month  
16 in which the officer completes 35 years of commissioned  
17 service.

18 “(6) An officer who is selected for continuation on  
19 the reserve active-status list as a result of the convening  
20 of a selection board under section 14101(b) of this title  
21 but who declines to continue on that list shall be separated  
22 in accordance with section 14513 or 14514 of this title,  
23 as the case may be.

24 “(7) Each officer who is continued on the reserve ac-  
25 tive-status list under this section, who is not subsequently



1 promoted or continued on the active-status list, and whose  
2 name is not on a list of officers recommended for pro-  
3 motion to the next higher grade shall (unless sooner sepa-  
4 rated under another provision of law) be separated in ac-  
5 cordance with section 14513 or 14514 of this title, as ap-  
6 propriate, upon the expiration of the period for which the  
7 officer was continued on the reserve active-status list.

8       “(b) APPROVAL OF SECRETARY CONCERNED.—Con-  
9 tinuation of an officer on the reserve active-status list  
10 under this section pursuant to action of a continuation  
11 board convened under section 14101(b) of this title is sub-  
12 ject to the approval of the Secretary of the military depart-  
13 ment concerned.

14       “(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A  
15 continuation board convened under section 14101(b) of  
16 this title to consider officers for continuation on the re-  
17 serve active-status list under this section shall act in ac-  
18 cordance with the instructions and directions provided to  
19 the board by the Secretary of the military department con-  
20 cerned.

21       “(d) REGULATIONS.—The Secretary of Defense shall  
22 prescribe regulations for the administration of this section.

1 **“§ 14702. Retention on reserve active-status list of**  
2 **certain officers until age 60**

3 “(a) RETENTION.—Notwithstanding the provisions of  
4 section 14506 or 14507 of this title, the Secretary of the  
5 military department concerned may, with the officer’s con-  
6 sent, retain on the reserve active-status list an officer in  
7 the grade of major, lieutenant colonel, or colonel who is—

8 “(1) an officer of the Army National Guard of  
9 the United States and assigned to a headquarters or  
10 headquarters detachment of a State; or

11 “(2) a reserve officer of the Army or Air Force  
12 who, as a condition of continued employment as a  
13 National Guard or Reserve technician is required by  
14 the Secretary concerned to maintain membership in  
15 a Selected Reserve unit or organization.

16 “(b) SEPARATION AT AGE 60.—An officer may be re-  
17 tained under this section only so long as the officer contin-  
18 ues to meet the conditions of subsection (a)(1) or (a)(2).  
19 An officer may not be retained under this section after  
20 the last day of the month in which the officer becomes  
21 60 years of age.

22 **“§ 14703. Authority to retain chaplains and officers in**  
23 **medical specialties until specified age**

24 “(a) RETENTION.—Notwithstanding any provision of  
25 chapter 1407 of this title and except for officers referred  
26 to in sections 14503, 14504, 14505, and 14506 of this

1 title and under regulations prescribed by the Secretary of  
2 Defense—

3 “(1) the Secretary of the Army may, with the  
4 officer’s consent, retain in an active status any re-  
5 serve officer assigned to the Medical Corps, the Den-  
6 tal Corps, the Veterinary Corps, the Medical Serv-  
7 ices Corps (if the officer has been designated as al-  
8 lied health officer or biomedical sciences officer in  
9 that Corps), the Optometry Section of the Medical  
10 Services Corps, the Chaplains, the Army Nurse  
11 Corps, or the Army Medical Specialists Corps;

12 “(2) the Secretary of the Navy may, with the  
13 officer’s consent, retain in an active status any re-  
14 serve officer appointed in the Medical Corps, Dental  
15 Corps, Nurse Corps, or Chaplain Corps or appointed  
16 in the Medical Services Corps and designated to per-  
17 form as a veterinarian, optometrist, podiatrist, allied  
18 health officer, or biomedical sciences officer; and

19 “(3) the Secretary of the Air Force may, with  
20 the officer’s consent, retain in an active status any  
21 reserve officer who is designated as a medical offi-  
22 cer, dental officer, veterinary officer, Air Force  
23 nurse, or chaplain or who is designated as a bio-  
24 medical sciences officer and is qualified for service  
25 as a veterinarian, optometrist, or podiatrist.

1       “(b) SEPARATION AT SPECIFIED AGE.—An officer  
2 may not be retained in active status under this section  
3 later than the date on which the officer becomes 67 years  
4 of age (or, in the case of a reserve officer of the Army  
5 in the Chaplains or a reserve officer of the Air Force des-  
6 ignated as a chaplain, 60 years of age).

7       **“§ 14704. Selective early removal from the reserve ac-**  
8                   **tive-status list**

9       “(a) BOARDS TO RECOMMEND OFFICERS FOR RE-  
10 MOVAL FROM RESERVE ACTIVE-STATUS LIST.—When-  
11 ever the Secretary of the military department concerned  
12 determines that there are in any reserve component under  
13 the jurisdiction of the Secretary too many officers in any  
14 grade and competitive category who have at least 30 years  
15 of service computed under section 14706 of this title or  
16 at least 20 years of service computed under section 12732  
17 of this title, the Secretary may convene a selection board  
18 under section 14101(b) of this title to consider all officers  
19 on that list who are in that grade and competitive cat-  
20 egory, and who have that amount of service, for the pur-  
21 pose of recommending officers by name for removal from  
22 the reserve active-status list, in the number specified by  
23 the Secretary by each grade and competitive category.

24       “(b) SEPARATION OF OFFICERS SELECTED.—In the  
25 case of an officer recommended for separation in the re-

1 port of a board under subsection (a), the Secretary may  
2 separate the officer in accordance with section 14514 of  
3 this title.

4 “(c) REGULATIONS.—The Secretary of the military  
5 department concerned shall prescribe regulations for the  
6 administration of this section.

7 **“§ 14705. Selective early retirement: reserve general**  
8 **and flag officers of the Navy and Marine**  
9 **Corps**

10 “(a) AUTHORITY TO CONSIDER.—An officer in the  
11 Naval Reserve in an active status serving in the grade of  
12 rear admiral (lower half) or rear admiral and an officer  
13 in the Marine Corps Reserve in an active status serving  
14 in the grade of brigadier general or major general may  
15 be considered for early retirement whenever the Secretary  
16 of the Navy determines that such action is necessary.

17 “(b) BOARDS.—If the Secretary of the Navy deter-  
18 mines that consideration for early retirement under this  
19 section is necessary, the Secretary shall convene a board  
20 under section 14101(b) of this title to recommend an ap-  
21 propriate number of officers for early retirement.

22 “(c) SEPARATION UNDER SECTION 14514.—An offi-  
23 cer selected for early retirement under this section shall  
24 be separated in accordance with section 14514 of this title.

1 **“§ 14706. Computation of total years of service**

2 “For the purpose of this chapter and chapter 1407  
3 of this title, a reserve officer’s years of service include all  
4 service, other than constructive service, of the officer as  
5 a commissioned officer of any uniformed service (other  
6 than service as a warrant officer).

7 **“CHAPTER 1411—ADDITIONAL PROVISIONS**

8 **RELATING TO INVOLUNTARY SEPARATION**

“Sec.

“14901. Separation of chaplains for loss of professional qualifications.

“14902. Separation for substandard performance and for certain other reasons.

“14903. Boards of inquiry.

“14904. Rights and procedures.

“14905. Officer considered for removal: retirement or discharge.

“14906. Officers eligible to serve on boards.

“14907. Army National Guard of the United States and Air National Guard  
of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

9 **“§ 14901. Separation of chaplains for loss of profes-**  
10 **sional qualifications**

11 “(a) SEPARATION.—Under regulations prescribed by  
12 the Secretary of Defense, an officer on the reserve active-  
13 status list who is appointed or designated as a chaplain  
14 may, if the officer fails to maintain the qualifications need-  
15 ed to perform the professional function of a chaplain, be  
16 discharged. The authority under the preceding sentence  
17 applies without regard to the provisions of section 12645  
18 of this title.

19 “(b) EFFECT OF SEPARATION.—If an officer sepa-  
20 rated under this section is eligible for retirement, the offi-

1 cer may be retired. If the officer has completed the years  
2 of service required for eligibility for retired pay under  
3 chapter 1223 of this title, the officer may be transferred  
4 to the Retired Reserve.

5 **“§ 14902. Separation for substandard performance**  
6 **and for certain other reasons**

7 “(a) SUBSTANDARD PERFORMANCE OF DUTY.—The  
8 Secretary of the military department concerned shall pre-  
9 scribe, by regulation, procedures for the review at any time  
10 of the record of any reserve officer to determine whether  
11 that officer should be required, because that officer’s per-  
12 formance has fallen below standards prescribed by the  
13 Secretary concerned, to show cause for retention in an  
14 active status.

15 “(b) MISCONDUCT, ETC.—The Secretary of the mili-  
16 tary department concerned shall prescribe, by regulation,  
17 procedures for the review at any time of the record of any  
18 reserve officer to determine whether that officer should be  
19 required, because of misconduct, because of moral or pro-  
20 fessional dereliction, or because the officer’s retention is  
21 not clearly consistent with the interests of national secu-  
22 rity, to show cause for retention in an active status.

23 “(c) REGULATIONS.—The authority of the Secretary  
24 of a military department under this section shall be car-

ried out subject to such limitations as the Secretary of  
Defense may prescribe by regulation.

**“§ 14903. Boards of inquiry**

“(a) CONVENING OF BOARDS.—The Secretary of the  
military department concerned shall convene a board of  
inquiry at such time and place as the Secretary may pre-  
scribe to receive evidence and review the case of any officer  
who has been required to show cause for retention in an  
active status under section 14902 of this title. Each board  
of inquiry shall be composed of not less than three officers  
who have the qualifications prescribed in section 14906  
of this title.

“(b) RIGHT TO FAIR HEARING.—A board of inquiry  
shall give a fair and impartial hearing to each officer re-  
quired under section 14902 of this chapter to show cause  
for retention in an active status.

“(c) RECOMMENDATIONS TO SECRETARY.—If a  
board of inquiry determines that the officer has failed to  
establish that the officer should be retained in an active  
status, the board shall recommend to the Secretary con-  
cerned that the officer not be retained in an active status.

“(d) ACTION BY SECRETARY.—After review of the  
recommendation of the board of inquiry, the Secretary  
may—



1           “(1) remove the officer from an active status;

2           or

3           “(2) determine that the case be closed.

4           “(e) ACTION IN CASES WHERE CAUSE FOR RETEN-  
5 TION IS ESTABLISHED.—(1) If a board of inquiry deter-  
6 mines that an officer has established that the officer  
7 should be retained in an active status or if the Secretary  
8 determines that the case be closed, the officer’s case is  
9 closed.

10          “(2) An officer who is required to show cause for re-  
11 tention under section 14902(a) of this title and whose case  
12 is closed under paragraph (1) may not again be required  
13 to show cause for retention under such subsection during  
14 the one-year period beginning on the date of that deter-  
15 mination.

16          “(3)(A) Subject to subparagraph (B), an officer who  
17 is required to show cause for retention under section  
18 14902(b) of this title and whose case is closed under para-  
19 graph (1) may again be required to show cause for reten-  
20 tion at any time.

21          “(B) An officer who has been required to show cause  
22 for retention under section 14902(b) of this title and who  
23 is thereafter retained in an active status may not again  
24 be required to show cause for retention under such section  
25 solely because of conduct which was the subject of the pre-

1 vious proceeding, unless the recommendations of the board  
2 of inquiry that considered the officer's case are determined  
3 to have been obtained by fraud or collusion.

4 **“§ 14904. Rights and procedures**

5 “(a) PROCEDURAL RIGHTS.—Under regulations pre-  
6 scribed by the Secretary of Defense, an officer required  
7 under section 14902 of this title to show cause for reten-  
8 tion in an active status—

9 “(1) shall be notified in writing, at least 30  
10 days before the hearing of the officer's case by a  
11 board of inquiry, of the reasons for which the officer  
12 is being required to show cause for retention in an  
13 active status;

14 “(2) shall be allowed a reasonable time, as de-  
15 termined by the board of inquiry, to prepare for  
16 showing of cause for retention in an active status;

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

20 “(4) shall be allowed full access to, and shall be  
21 furnished copies of, records relevant to the case, ex-  
22 cept that the board of inquiry shall withhold any  
23 record that the Secretary concerned determines  
24 should be withheld in the interest of national secu-  
25 rity.

1 “(b) SUMMARY OF RECORDS WITHHELD.—When a  
2 record is withheld under subsection (a)(4), the officer  
3 whose case is under consideration shall, to the extent that  
4 the interest of national security permits, be furnished a  
5 summary of the record so withheld.

6 **“§ 14905. Officer considered for removal: retirement**  
7 **or discharge**

8 “(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At  
9 any time during proceedings under this chapter with re-  
10 spect to the removal of an officer from an active status,  
11 the Secretary of the military department concerned may  
12 grant a request by the officer—

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

15 “(2) for transfer to the Retired Reserve if the  
16 officer has completed the years of service required  
17 for eligibility for retired pay under chapter 1223 of  
18 this title and is otherwise eligible for transfer to the  
19 Retired Reserve; or

20 “(3) for discharge in accordance with sub-  
21 section (b)(3).

22 “(b) REQUIRED RETIREMENT OR DISCHARGE.—An  
23 officer removed from an active status under section 14903  
24 of this title shall—

1           “(1) if eligible for voluntary retirement under  
2           any provision of law on the date of such removal, be  
3           retired in the grade and with the retired pay for  
4           which he would be eligible if retired under that pro-  
5           vision;

6           “(2) if eligible for transfer to the Retired Re-  
7           serve and has completed the years of service re-  
8           quired for retired pay under chapter 1223 of this  
9           title, be transferred to the Retired Reserve; and

10          “(3) if ineligible for retirement or transfer to  
11          the Retired Reserve under paragraph (1) or (2) on  
12          the date of such removal—

13               “(A) be honorably discharged in the grade  
14               then held, in the case of an officer whose case  
15               was brought under subsection (a) of section  
16               14902 of this title; or

17               “(B) be discharged in the grade then held,  
18               in the case of an officer whose case was brought  
19               under subsection (b) of section 14902 of this  
20               title.

21          “(c) SEPARATION PAY.—An officer who is discharged  
22          under subsection (b)(3) is entitled, if eligible therefor, to  
23          separation pay under section 1174(c) of this title.

1 **“§ 14906. Officers eligible to serve on boards**

2       “(a) COMPOSITION OF BOARDS.—(1) Each officer  
3 who serves on a board convened under this chapter shall  
4 be an officer of the same armed force as the officer being  
5 required to show cause for retention in an active status.

6       “(2) An officer may not serve on a board under this  
7 chapter unless the officer holds a grade above lieutenant  
8 colonel or commander and is senior in grade and rank to  
9 any officer considered by the board.

10       “(b) LIMITATION.—A person may not be a member  
11 of more than one board convened under this chapter to  
12 consider the same officer.

13 **“§ 14907. Army National Guard of the United States**  
14 **and Air National Guard of the United**  
15 **States: discharge and withdrawal of Fed-**  
16 **eral recognition of officers absent with-**  
17 **out leave**

18       “(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNI-  
19 TION.—If an officer of the Army National Guard of the  
20 United States or the Air National Guard of the United  
21 States has been absent without leave for three months,  
22 the Secretary of the Army or the Secretary of the Air  
23 Force, as appropriate, may—

24       “(1) terminate the reserve appointment of the  
25 officer; and

1           “(2) withdraw the officer’s Federal recognition  
2           as an officer of the National Guard.

3           “(b) DISCHARGE FROM RESERVE APPOINTMENT.—  
4           An officer of the Army National Guard of the United  
5           States or the Air National Guard of the United States  
6           whose Federal recognition as an officer of the National  
7           Guard is withdrawn under section 323(b) of title 32 shall  
8           be discharged from the officer’s appointment as a reserve  
9           officer of the Army or the Air Force, as the case may be.”.

10                   PART B—CONFORMING AMENDMENTS

11   **SEC. 111. DEFINITION OF RESERVE ACTIVE-STATUS LIST.**

12           Section 101(c) is amended by adding at the end the  
13           following new paragraph:

14           “(7) The term ‘reserve active-status list’ means  
15           a single list for the Army, Navy, Air Force, or Ma-  
16           rine Corps (required to be maintained under section  
17           14002 of this title) that contains the names of all  
18           officers of that armed force except warrant officers  
19           (including commissioned warrant officers) who are  
20           in an active status in a reserve component of the  
21           Army, Navy, Air Force, or Marine Corps and are  
22           not on an active-duty list.”.

1 **SEC. 112. AUTHORITY TO SUSPEND OFFICER PERSONNEL**  
2 **LAWS DURING WAR OR NATIONAL EMER-**  
3 **GENCY.**

4 (a) **AUTHORITY.**—Section 123 is amended to read as  
5 follows:

6 **“§ 123. Authority to suspend officer personnel laws**  
7 **during war or national emergency**

8 “In time of war, or of national emergency declared  
9 by Congress or the President after November 30, 1980,  
10 the President may suspend the operation of any provision  
11 of law relating to the promotion, involuntary retirement,  
12 or separation of commissioned officers of the Army, Navy,  
13 Air Force, Marine Corps, or Coast Guard Reserve. So long  
14 as such war or national emergency continues, any such  
15 suspension may be extended by the President.

16 “(b) Any such suspension shall, if not sooner ended,  
17 end on the last day of the two-year period beginning on  
18 the date on which the suspension (or the last extension  
19 thereof) takes effect or on the last day of the one-year  
20 period beginning on the date of the termination of the war  
21 or national emergency, whichever occurs first. With re-  
22 spect to the end of any such suspension, the preceding  
23 sentence supersedes the provisions of title II of the Na-  
24 tional Emergencies Act (50 U.S.C. 1621–1622) which  
25 provide that powers or authorities exercised by reason of

1 a national emergency shall cease to be exercised after the  
2 date of the termination of the emergency.

3 “(c) If a provision of law pertaining to the promotion  
4 of reserve officers is suspended under this section and if  
5 the Secretary of Defense submits to Congress proposed  
6 legislation to adjust the grades and dates of rank of re-  
7 serve commissioned officers other than commissioned war-  
8 rant officers, such proposed legislation shall, so far as  
9 practicable, be the same as that recommended for adjust-  
10 ing the grades and dates of rank of officers of the regular  
11 component of the armed force concerned.”.

12 (b) CONFORMING REPEAL.—Section 644 is repealed.

13 **SEC. 113. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE**  
14 **AUTHORITY TO RECOMMEND THAT RESERVE**  
15 **OFFICERS CONSIDERED FOR PROMOTION BE**  
16 **REQUIRED TO SHOW CAUSE FOR RETENTION**  
17 **ON ACTIVE DUTY.**

18 Section 617(b) is amended—

19 (1) by inserting “or reserve” after “any regu-  
20 lar”; and

21 (2) by inserting “or 1411” after “chapter 60”.

22 **SEC. 114. APPLICABILITY OF CHAPTER 36 TO RESERVE OF-**  
23 **FICERS DURING WAR OR NATIONAL EMER-**  
24 **GENCY.**

25 Section 641 is amended—



1           (1) by inserting “(a)” before “Officers in the  
2       following”; and

3           (2) by adding at the end the following:

4       “(b) Under regulations prescribed by the Secretary  
5 of the military department concerned, a reserve officer  
6 who is ordered to active duty (whether voluntarily or invol-  
7 untarily) during a war or national emergency and who  
8 would otherwise be placed on the active-duty list may be  
9 excluded from that list as determined by the Secretary  
10 concerned. Exclusion of an officer from the active-duty list  
11 as the result of action by the Secretary concerned under  
12 the preceding sentence shall expire not later than 24  
13 months after the date on which the officer enters active  
14 duty under an order to active duty covered by that sen-  
15 tence.”.

16 **SEC. 115. GRADE IN WHICH RESERVE OFFICERS ARE OR-**  
17 **DERED TO ACTIVE DUTY.**

18       Section 689 is amended—

19           (1) by inserting “or full-time National Guard  
20       duty” after “active duty” the first two places it  
21       appears; and

22           (2) by inserting “and placed on the active-duty  
23       list” after “active duty” the third place it appears.

24 **SEC. 116. DATE OF RANK.**

25       Section 741(d)(3) is amended—

1 (1) by inserting “or who is transferred from an  
2 inactive status to an active status and placed on the  
3 active-duty list or the reserve active-status list” after  
4 “warrant officer (W-5)”;

5 (2) by inserting “or reserve active-status list”  
6 after “active-duty list” the second place it appears;  
7 and

8 (3) by adding at the end: “The authority to  
9 change the date of rank of a reserve officer who is  
10 placed on the active-duty list to a later date does not  
11 apply in the case of an officer who (A) has served  
12 continuously in the Selected Reserve of the Ready  
13 Reserve since the officer’s last promotion, or (B) is  
14 placed on the active-duty list while on a promotion  
15 list as described in section 14317(b) of this title.”.

16 **SEC. 117. DISCHARGE BEFORE COMPLETION OF REQUIRED**  
17 **SERVICE IN CASE OF OFFICERS HAVING**  
18 **TWICE FAILED OF SELECTION FOR CAPTAIN**  
19 **OR NAVY LIEUTENANT.**

20 Section 1005(b) is amended—

21 (1) by striking out “or” at the end of  
22 paragraph (1);

23 (2) by striking out the period at the end of  
24 paragraph (2) and inserting in lieu thereof a semi-  
25 colon; and

1 (3) by adding at the end the following:

2 “(3) an officer on the active-duty list or reserve  
3 active-status list who has failed of selection for pro-  
4 motion for the second time to the grade of captain,  
5 in the case of an officer of the Army, Air Force, or  
6 Marine Corps, or to the grade of lieutenant, in the  
7 case of an officer of the Navy; or

8 “(4) an officer whose discharge or transfer  
9 from an active status is required by law.”.

10 **SEC. 118. CONFORMING AMENDMENTS RELATING TO NAVY**  
11 **AND MARINE CORPS OFFICERS.**

12 Section 6389 is amended—

13 (1) in subsection (a)—

14 (A) by inserting “while on the active-duty  
15 list” after “to the next higher grade”; and

16 (B) by striking out the period at the end  
17 and inserting in lieu thereof “or released from  
18 active duty and placed on the reserve active-sta-  
19 tus list.”;

20 (2) in subsection (b), by striking out “or (f)”;

21 (3) in subsection (c)—

22 (A) by inserting “(1)” after “(c)”;

23 (B) by striking out “lieutenant commander  
24 or above” both places it appears and inserting

1 in lieu thereof “lieutenant commander or com-  
2 mander”;

3 (C) by striking out “major or above” both  
4 places it appears and inserting in lieu thereof  
5 “major or lieutenant colonel”;

6 (D) by inserting “while on the active-duty  
7 list” after “to the next higher grade” in the  
8 first sentence; and

9 (E) in the table—

10 (i) by striking out the line relating to  
11 the grades of captain in the Navy and colo-  
12 nel in the Marine Corps; and

13 (ii) by striking out “26 years” and in-  
14 serting in lieu thereof “28 years”;

15 (F) by designating the sentence after the  
16 table as paragraph (2) and in that sentence  
17 striking out “the first sentence of this sub-  
18 section” and inserting in lieu thereof “the first  
19 sentence of paragraph (1)”;

20 (G) by designating the next sentence as  
21 paragraph (3) and in that sentence striking out  
22 “the first two sentences of this subsection” and  
23 inserting in lieu thereof “paragraph (1)”;

24 (H) by designating the last sentence as  
25 paragraph (4) and in that sentence—

- 1 (i) striking out “the first two sen-  
2 tences of this subsection” and inserting in  
3 lieu thereof “paragraph (1)”; and  
4 (ii) striking out “captain or”; and  
5 (4) by striking out subsections (e), (f), and (g).

6 **SEC. 119. REPEAL OF RESERVE OFFICER PERSONNEL POL-**  
7 **ICY LAWS.**

8 (a) ARMY PROVISIONS.—

9 (1) Chapter 337, relating to appointments as  
10 reserve officers (other than sections 3351 and  
11 3352), is repealed.

12 (2) Chapter 361, relating to separation for var-  
13 ious reasons, is repealed.

14 (3) Chapter 363, relating to separation or  
15 transfer to the Retired Reserve, is repealed.

16 (b) NAVY AND MARINE CORPS PROVISIONS.—

17 (1) Chapter 541, relating to running mates as  
18 reserve officers, is repealed.

19 (2) Chapter 549, relating to reserve promotions,  
20 is repealed.

21 (3) Sections 6391, 6392, 6397, 6403, and 6410  
22 are repealed.

23 (c) AIR FORCE PROVISIONS.—

1 (1) Chapter 837, relating to appointments as  
2 reserve officers (other than sections 8351 and  
3 8352), is repealed.

4 (2) Sections 8819 and 8820 are repealed.

5 (3) Chapter 863, relating to separation or  
6 transfer to the Retired Reserve, is repealed.

7 **SEC. 120. AMENDMENTS TO TITLE 32, UNITED STATES**  
8 **CODE.**

9 Title 32, United States Code, is amended as follows:

10 (1) Sections 309 and 310 are amended to read  
11 as follows:

12 **“§ 309. Federal recognition of National Guard offi-**  
13 **cers: officers promoted to fill vacancies**

14 “Each officer of the National Guard who is promoted  
15 to fill a vacancy in a federally recognized unit of the Na-  
16 tional Guard, and who has been on the reserve active-sta-  
17 tus list or the active-duty list of the Army or the Air Force  
18 for at least one year and has completed the minimum  
19 years of service in grade specified in section 14303 of title  
20 10, shall be examined for Federal recognition in the grade  
21 to which the officer is promoted.

22 **“§ 310. Federal recognition of National Guard offi-**  
23 **cers: automatic recognition**

24 “(a) Notwithstanding sections 307 and 309 of this  
25 title, if a second lieutenant of the National Guard is pro-

1 moted to the grade of first lieutenant to fill a vacancy in  
2 a federally recognized unit in the National Guard, Federal  
3 recognition is automatically extended to that officer in the  
4 grade of first lieutenant, effective as of the date on which  
5 that officer has completed the service in the grade speci-  
6 fied in section 14303(a)(1) of title 10 and has met such  
7 other requirements as prescribed by the Secretary con-  
8 cerned under section 14308(b) of that title, if the officer  
9 has remained in an active status since the officer was so  
10 recommended.

11 “(b) Notwithstanding sections 307 and 309 of this  
12 title, if an officer of the Army Reserve or the Air Force  
13 Reserve in a reserve grade above second lieutenant is ap-  
14 pointed in the next higher grade in the National Guard  
15 to fill a vacancy in a federally recognized unit in the Na-  
16 tional Guard, Federal recognition is automatically ex-  
17 tended to that officer in the grade in which the officer  
18 is so appointed in the National Guard if the officer has  
19 been recommended for promotion under chapter 1405 of  
20 title 10 and has remained in an active status since the  
21 officer was so recommended. The extension of Federal rec-  
22 ognition under this subsection is effective as of the date  
23 when the officer is appointed in the National Guard.”.

1           (2) Section 323 is amended by striking out sub-  
 2       sections (d) and (e) and inserting in lieu thereof  
 3       the following:

4       “(d) The Federal recognition of a reserve commis-  
 5       sioned officer of the Army or the Air Force who is—

6           “(1) federally recognized as an officer of the  
 7       National Guard; and

8           “(2) subject to involuntary transfer to the Re-  
 9       tired Reserve, transfer to an inactive status list, or  
 10      discharge under chapter 1407, 1409, or 1411 of title  
 11      10;

12      shall, if not sooner withdrawn, be withdrawn on the date  
 13      of such involuntary transfer or discharge.”.

14      **TITLE II—OTHER PERSONNEL POLICY**  
 15                                   **AMENDMENTS**

16                                   PART A—APPOINTMENTS

17      **SEC. 201. REPEAL OF SEPARATE AUTHORITY FOR ACCES-**  
 18                                   **SION OF WOMEN IN RESERVE COMPONENTS.**

19      (a) ENLISTMENTS.—Section 510 is amended—

20           (1) by striking out subsection (c); and

21           (2) by redesignating subsection (d) as sub-  
 22      section (c).

23      (b) APPOINTMENT OF OFFICERS.—Section 591 is  
 24      amended—

25           (1) by striking out subsection (c); and



1 (2) by redesignating subsections (d) and (e) as  
2 subsections (c) and (d), respectively.

3 **SEC. 202. APPOINTMENT AUTHORITY FOR RESERVE**  
4 **GRADES OF LIEUTENANT COLONEL AND**  
5 **COMMANDER.**

6 Section 593(a) is amended—

7 (1) in the first sentence, by striking out “Re-  
8 serves in commissioned grades below lieutenant colo-  
9 nel and commander” and inserting in lieu thereof  
10 “reserve officers in commissioned grades of lieuten-  
11 ant colonel and commander or below”; and

12 (2) in the second sentence, by striking out “Re-  
13 serves in commissioned grades above major and lieu-  
14 tenant commander” and inserting in lieu thereof  
15 “reserve officers in commissioned grades above lieu-  
16 tenant colonel and commander”.

17 **SEC. 203. APPOINTMENT OF FORMER COMMISSIONED OFFI-**  
18 **CERS IN RESERVE COMPONENTS.**

19 Chapter 34 is amended by inserting after section 596  
20 the following new section:

21 **“§ 596a. Commissioned officers: appointment of**  
22 **former commissioned officers**

23 “Under regulations prescribed by the Secretary of  
24 Defense, a person who is a former commissioned officer  
25 may, if otherwise qualified, be appointed as a reserve offi-

cer of the Army, Navy, Air Force, or Marine Corps. A  
 person so appointed—

“(1) may be placed on the reserve active-status  
 list of that armed force in the grade equivalent to  
 the permanent regular or reserve grade, and in the  
 same competitive category, in which the person pre-  
 viously served satisfactorily on active duty or in an  
 active status; and

“(2) may be credited for the purpose of deter-  
 mining date of rank under section 741(d) of this  
 title with service in grade equal to that held by that  
 person when discharged or separated.”.

**SEC. 204. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF  
 OFFICERS IN RESERVE COMPONENTS WITH  
 QUALIFYING EDUCATION OR EXPERIENCE.**

Chapter 34 is further amended by inserting after sec-  
 tion 596a (as added by section 203) the following new sec-  
 tion:

**“§ 596b. Commissioned officers: service credit upon  
 original appointment**

“(a)(1) For the purpose of determining the grade and  
 the rank within grade of a person receiving an original  
 appointment as a reserve commissioned officer (other than  
 a commissioned warrant officer) in the Army, Navy, Air  
 Force, or Marine Corps, the person shall be credited at

1 the time of the appointment with any commissioned serv-  
2 ice (other than service as a commissioned warrant officer)  
3 performed before such appointment as a regular officer,  
4 or as a reserve officer in an active status, in any armed  
5 force, the National Oceanic and Atmospheric Administra-  
6 tion, or the Public Health Service.

7 “(2) The Secretary of Defense shall prescribe regula-  
8 tions, which shall apply uniformly among the Army, Navy,  
9 Air Force, and Marine Corps, to authorize the Secretary  
10 of the military department concerned to limit the amount  
11 of prior commissioned service with which a person receiv-  
12 ing an original appointment may be credited under para-  
13 graph (1), or to deny any such credit, in the case of a  
14 person who at the time of such appointment is credited  
15 with constructive service under subsection (b).

16 “(b)(1) Under regulations prescribed by the Sec-  
17 retary of Defense, a person who is receiving an original  
18 appointment as a reserve commissioned officer (other than  
19 a commissioned warrant officer) of the Army, Navy, Air  
20 Force, or Marine Corps, or a designation in, or an assign-  
21 ment to, an officer category in which advanced education  
22 or training is required and who has advanced education  
23 or training, shall be credited with constructive service for  
24 such education, training, or experience, as follows:

1           “(A) One year for each year of advanced edu-  
2           cation beyond the baccalaureate degree level, for per-  
3           sons appointed or designated in, or assigned to, offi-  
4           cer categories requiring such advanced education or  
5           an advanced degree as a prerequisite for such ap-  
6           pointment, designation, or assignment. Except as  
7           provided in subparagraph (D), in determining the  
8           number of years of constructive service to be cred-  
9           ited under this subparagraph to officers in any pro-  
10          fessional field, the Secretary concerned shall credit  
11          an officer with, but with not more than, the number  
12          of years of postsecondary education in excess of four  
13          that are required by a majority of institutions that  
14          award degrees in that professional field for comple-  
15          tion of the advanced education or award of the ad-  
16          vanced degree.

17           “(B)(i) Credit for any period of advanced edu-  
18          cation in a health profession (other than medicine  
19          and dentistry) beyond the baccalaureate degree level  
20          which exceeds the basic education criteria for such  
21          appointment, designation, or assignment, if such ad-  
22          vanced education will be directly used by the armed  
23          force concerned.

24           “(ii) Credit for experience in a health profession  
25          (other than medicine or dentistry), if such experi-

1       ence will be directly used by the armed force con-  
2       cerned.

3           “(C) Additional credit of (i) not more than one  
4       year for internship or equivalent graduate medical,  
5       dental, or other formal health professional training  
6       required by the armed forces, and (ii) not more than  
7       one year for each additional year of such graduate-  
8       level training or experience creditable toward certifi-  
9       cation in a speciality required by the armed force  
10      concerned.

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

13          “(E) Additional credit of one year for advanced  
14      education in a health profession if the number of  
15      years of baccalaureate education completed by 75  
16      percent or more of the students entering advanced  
17      training in that health profession exceeds, by one or  
18      more, the minimum number of years of  
19      preprofessional education required by a majority of  
20      institutions which award degrees in that health pro-  
21      fession. The percentage of such persons shall be  
22      computed on an annual basis for each health profes-  
23      sion from the data for the year in which the person  
24      being so appointed, designated, or assigned was ad-  
25      mitted to a professional school. However, a person

1       may not receive additional credit under this subpara-  
2       graph if the amount of that person's baccalaureate  
3       education does not exceed, by one or more, the mini-  
4       mum number of years of preprofessional education  
5       required by a majority of institutions which award  
6       degrees for that health profession, determined on the  
7       basis prescribed in the preceding sentence.

8               “(F) Additional credit for experience as a phy-  
9       sician or dentist, if appointed, assigned, or des-  
10      ignated as a medical or dental officer.

11       “(2) If the Secretary of Defense determines that the  
12      number of medical or dental officers serving in an active  
13      status in a reserve component of the Army, Navy, or Air  
14      Force in grades below major or lieutenant commander is  
15      critically below the number needed by such reserve compo-  
16      nent in such grades, the Secretary of Defense may author-  
17      ize the Secretary of the military department concerned to  
18      credit any person who is receiving an original appointment  
19      for service as a medical or dental officer with a period  
20      of constructive credit in such amount (in addition to any  
21      amount credited such person under subsection (b)) as will  
22      result in the grade of such person being that of captain  
23      or, in the case of the Naval Reserve, lieutenant.

24       “(3) Except as authorized by the Secretary concerned  
25      in individual cases and under regulations prescribed by the

1 Secretary of Defense in the case of a medical or dental  
2 officer, the amount of constructive service credited an offi-  
3 cer under this subsection may not exceed the amount re-  
4 quired in order for the officer to be eligible for an original  
5 appointment as a reserve officer of the Army, Air Force,  
6 or Marine Corps in the grade of major or as a reserve  
7 officer of the Navy in the grade of lieutenant commander.

8       “(4) Constructive service credited an officer under  
9 this subsection is in addition to any service credited that  
10 officer under subsection (a) and shall be credited at the  
11 time of the original appointment of the officer or assign-  
12 ment to or designation in an officer category in which  
13 advanced education or training or special experience is  
14 required.

15       “(c) Constructive service may not be credited under  
16 subsection (b) for education, training, or experience ob-  
17 tained while serving as a commissioned officer (other than  
18 a warrant officer) on active duty or in an active status.  
19 However, in the case of an officer who completes advanced  
20 education or receives an advanced degree while on active  
21 duty or in an active status and in less than the number  
22 of years normally required to complete such advanced edu-  
23 cation or receive such advanced degree, constructive serv-  
24 ice may, subject to regulations prescribed under subsection  
25 (a)(2), be credited to the officer under subsection

1 (b)(1)(A) to the extent that the number of years normally  
2 required to complete such advanced education or receive  
3 such advanced degree exceeds the actual number of years  
4 in which such advanced education or degree is obtained  
5 by the officer.

6 “(d) If the Secretary of Defense determines that the  
7 number of qualified judge advocates serving on the active-  
8 duty list of the Army, Navy, Air Force, or Marine Corps  
9 in grades below lieutenant commander or major is criti-  
10 cally below the number needed by that armed force in  
11 those grades, the Secretary of Defense may authorize the  
12 Secretary of the military department concerned to credit  
13 any person who is receiving an original appointment with  
14 a view to assignment to the Judge Advocate General’s  
15 Corps of the Army or appointment to the Judge Advocate  
16 General’s Corps of the Navy, or who is receiving an origi-  
17 nal appointment in the Air Force or Marine Corps with  
18 a view to designation as a judge advocate, with a period  
19 of constructive service in such an amount (in addition to  
20 any amount credited such person under subsection (b)) as  
21 will result in the grade of such person being that of cap-  
22 tain or, in the case of the Navy, lieutenant, and the date  
23 of rank of such person being junior to that of all other  
24 officers of the same grade serving on the active-duty list.



1 “(e) Constructive service credited an officer under  
2 subsection (b) or (d) shall be used only for determin-  
3 ing the officer’s—

4 “(1) initial grade as a reserve officer;

5 “(2) rank in grade; and

6 “(3) service in grade for promotion eligibility.

7 “(f) The grade and position on the reserve active-sta-  
8 tus list of a person receiving an appointment as a reserve  
9 officer who at the time of appointment is credited with  
10 service under this section shall be determined under regu-  
11 lations prescribed by the Secretary of Defense based upon  
12 the amount of service credited.”.

13 **SEC. 205. COMPUTATION OF YEARS OF SERVICE FOR**  
14 **TRANSFER OF ARMY OFFICERS TO RETIRED**  
15 **RESERVE.**

16 (a) INTERIM REPEAL OF OBSOLETE PROVISION.—  
17 Effective for the period beginning on the date of the enact-  
18 ment of this Act and ending on the effective date specified  
19 in section 601, section 3853 is amended by striking out  
20 “the greater of—” and all that follows and inserting in  
21 lieu thereof “the sum of the following:

22 “(1) The officer’s years of service as a commis-  
23 sioned officer of any component of the armed forces  
24 or of the Army without specification of component.

1           “(2) The officer’s years of service in a federally  
2       recognized commissioned status in the National  
3       Guard if his service in the National Guard was con-  
4       tinuous from the date of his Federal recognition as  
5       an officer in the National Guard to the date of his  
6       appointment in the National Guard of the United  
7       States.”.

8       (b) EFFECTIVE DATE.—The amendment made by  
9       subsection (a) shall apply with respect to transfers to the  
10      Retired Reserve and to discharges on or after the date  
11      of the enactment of this Act.

12      **SEC. 206. REPEAL OF MISCELLANEOUS OBSOLETE AP-**  
13                              **POINTMENT AUTHORITIES.**

14      (a) ARMY RESERVE OFFICERS APPOINTED IN TEM-  
15      PORARY GRADES.—Section 3352(a) is amended by strik-  
16      ing out the second sentence.

17      (b) AIR FORCE AVIATION CADETS.—Section 8356 is  
18      repealed.

19      (c) REDUNDANT STATEMENT OF AUTHORITY.—Sec-  
20      tion 8379 is repealed.

## 1           PART B—SEPARATION AND RETIREMENT

2   **SEC. 221. COMPUTATION OF HIGHEST GRADE IN WHICH**  
3                   **SATISFACTORILY SERVED FOR RESERVE**  
4                   **COMMISSIONED OFFICERS AND FORMER OF-**  
5                   **FICERS.**

6           Section 1370 is amended by adding at the end the  
7 following new subsection:

8           “(d)(1) Unless entitled to a higher grade, or to credit  
9 for satisfactory service in a higher grade, under some  
10 other provision of law, a person who is entitled to retired  
11 pay under chapter 1225 of this title shall, upon application  
12 under section 12731 of this title, be credited with satisfac-  
13 tory service in the highest grade in which that person  
14 served satisfactorily at any time in the armed forces, as  
15 determined by the Secretary concerned in accordance with  
16 this subsection.

17           “(2)(A) In order to be credited with satisfactory serv-  
18 ice in an officer grade (other than a warrant officer grade)  
19 below the grade of lieutenant colonel or commander, a per-  
20 son covered by paragraph (1) must have served satisfac-  
21 torily in that grade (as determined by the Secretary of  
22 the military department concerned) as a reserve commis-  
23 sioned officer in an active status, or in a retired status  
24 on active duty, for not less than six months.

1       “(B) In order to be credited with satisfactory service  
2 in an officer grade above major or lieutenant commander  
3 and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in  
4 that grade (as determined by the Secretary of the military  
5 department concerned) as a reserve commissioned officer  
6 in an active status, or in a retired status on active duty,  
7 for not less than three years. A person covered by the preceding sentence who has completed at least six months of  
8 satisfactory service in grade and is transferred from an  
9 active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary  
10 provision of law requiring that transfer or discharge due  
11 to the person’s age or years of service may be credited  
12 with satisfactory service in the grade in which serving at  
13 the time of such transfer or discharge, notwithstanding  
14 failure of the person to complete three years of service in  
15 that grade.

16       “(3) A person whose length of service in the highest  
17 grade held does not meet the service in grade requirements  
18 specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person  
19 served satisfactorily (as determined by the Secretary of  
20 the military department concerned) for not less than six  
21 months.”.

## 1                   PART C—OTHER AMENDMENTS

2   **SEC. 241. TENURE IN OFFICE OF CHIEF OF NATIONAL**  
3                   **GUARD BUREAU.**

4           Section 3040(c) is amended by adding at the end the  
5 following new sentence: “While holding that office, the  
6 Chief of the National Guard Bureau may not be removed  
7 from the reserve active-status list, or from an active sta-  
8 tus, under any provision of law that otherwise would re-  
9 quire such removal due to completion of a specified num-  
10 ber of years of service or a specified number of years of  
11 service in grade.”.

12   **SEC. 242. RIGHT TO REENLIST IN REGULAR ARMY OR**  
13                   **REGULAR AIR FORCE AFTER SERVICE AS AN**  
14                   **OFFICER.**

15           (a) ARMY.—Section 3258 is amended—

16                   (1) by striking out “Any former enlisted mem-  
17 ber” and inserting in lieu thereof “(a) Subject to  
18 subsections (b) and (c), a former enlisted member”;

19                   (2) by striking out the last sentence; and

20                   (3) by adding at the end the following:

21           “(b) A person who is a former enlisted member is  
22 not entitled to be reenlisted under subsection (a) if that  
23 person is discharged or released from active duty from  
24 service as an officer described in that subsection—

1           “(1) because that person’s performance of duty  
2       while serving as such an officer has fallen below  
3       standards prescribed by the Secretary of Defense;

4           “(2) because of misconduct or moral or profes-  
5       sional dereliction; or

6           “(3) because retention of that person as an offi-  
7       cer is not clearly consistent with the interest of na-  
8       tional security.

9       “(c) A person who is a former enlisted member is  
10   not entitled to be reenlisted under subsection (a) if that  
11   person’s status and grade as an enlisted member were only  
12   held during, and solely as a result of, participation in a  
13   precommissioning program after the effective date of the  
14   Reserve Officer Personnel Management Act.”.

15       (b) AIR FORCE.—Section 8258 is amended—

16           (1) by striking out “Any former enlisted mem-  
17       ber” and inserting in lieu thereof “(a) Subject to  
18       subsections (b) and (c), a former enlisted member”;

19           (2) by striking out the last sentence; and

20           (3) by adding at the end the following:

21       “(b) A person who is a former enlisted member is  
22   not entitled to be reenlisted under subsection (a) if that  
23   person is discharged or released from active duty from  
24   service as an officer described in that subsection—

1           “(1) because that person’s performance of duty  
2       while serving as such an officer has fallen below  
3       standards prescribed by the Secretary of Defense;

4           “(2) because of misconduct or moral or profes-  
5       sional dereliction; or

6           “(3) because retention of that person as an offi-  
7       cer is not clearly consistent with the interest of na-  
8       tional security.

9       “(c) A person who is a former enlisted member is  
10   not entitled to be reenlisted under subsection (a) if that  
11   person’s status and grade as an enlisted member were only  
12   held during, and solely as a result of, participation in a  
13   precommissioning program after the effective date of the  
14   Reserve Officer Personnel Management Act.”.

15   **TITLE III—REORGANIZATION AND CON-**  
16       **SOLIDATION OF LAWS RELATING TO**  
17       **RESERVE COMPONENTS**

18   **SEC. 301. LAWS RELATING TO ORGANIZATION AND ADMIN-**  
19       **ISTRATION OF RESERVE COMPONENTS.**

20       (a) RESERVE COMPONENTS GENERALLY.—(1) Sub-  
21   title E, as added by section 101, is amended by inserting  
22   after the table of chapters at the beginning of the sub-  
23   title the following:

1                   **“PART I—ORGANIZATION AND**  
 2                   **ADMINISTRATION**

|                                                                |       |
|----------------------------------------------------------------|-------|
| “Chap                                                          | Sec.  |
| “1001. Definitions .....                                       | 10001 |
| “1003. Reserve Components Generally .....                      | 10101 |
| “1005. Elements of Reserve Components .....                    | 10141 |
| “1007. Administration of Reserve Components .....              | 10201 |
| “1009. Reserve Forces Policy Boards and Committees .....       | 10301 |
| “1011. National Guard Bureau .....                             | 10501 |
| “1013. Budget Information and Annual Reports to Congress ..... | 10541 |

3                   **“CHAPTER 1001—DEFINITIONS**

“Sec.  
 “10001. Definition of State.

4   **“§ 10001. Definition of State**

5            “In this subtitle, the term ‘State’ includes the Dis-  
 6    trict of Columbia, the Commonwealth of Puerto Rico,  
 7    the Virgin Islands, and Guam.

8            **“CHAPTER 1003—RESERVE COMPONENTS**

9                   **GENERALLY**

“Sec.  
 “10101. Reserve components named.  
 “10102. Purpose of reserve components.  
 “10103. Basic policy for order of National Guard into Federal service.  
 “10104. Army Reserve: composition.  
 “10105. Army National Guard of the United States: composition.  
 “10106. Army National Guard: when a component of the Army.  
 “10107. Army National Guard of the United States: status when not in Federal  
           service.  
 “10108. Naval Reserve: administration.  
 “10109. Marine Corps Reserve: administration.  
 “10110. Air Force Reserve: composition.  
 “10111. Air National Guard of the United States: composition.  
 “10112. Air National Guard: when a component of the Air Force.  
 “10113. Air National Guard of the United States: status when not in Federal  
           service.  
 “10114. Coast Guard Reserve.

10   **“§ 10101. Reserve components named**

11            “The reserve components of the armed forces are:



1           “(1) The Army National Guard of the United  
2 States.

3           “(2) The Army Reserve.

4           “(3) The Naval Reserve.

5           “(4) The Marine Corps Reserve.

6           “(5) The Air National Guard of the United  
7 States.

8           “(6) The Air Force Reserve.

9           “(7) The Coast Guard Reserve.

10 **“§ 10102. Purpose of reserve components**

11           “The purpose of each reserve component is to provide  
12 trained units and qualified persons available for active  
13 duty in the armed forces, in time of war or national emer-  
14 gency, and at such other times as the national security  
15 may require, to fill the needs of the armed forces when-  
16 ever, during and after the period needed to procure and  
17 train additional units and qualified persons to achieve the  
18 planned mobilization, more units and persons are need-  
19 ed than are in the regular components.

20 **“§ 10103. Basic policy for order of the National Guard**  
21 **and reserve components to active duty**

22           “Whenever Congress determines that more units and  
23 organizations are needed for the national security than are  
24 in the regular components of the ground and air forces,  
25 the Army National Guard of the United States and the

1 Air National Guard of the United States, or such parts  
2 of them as are needed, together with units of other reserve  
3 components necessary for a balanced force, shall be or-  
4 dered to active duty and retained as long as so needed.

5 **“§ 10104. Army Reserve: composition**

6 “The Army Reserve includes all Reserves of the Army  
7 who are not members of the Army National Guard of the  
8 United States.

9 **“§ 10105. Army National Guard of the United States:**  
10 **composition**

11 “The Army National Guard of the United States is  
12 the reserve component of the Army that consists of—

13 “(1) federally recognized units and organiza-  
14 tions of the Army National Guard; and

15 “(2) members of the Army National Guard who  
16 are also Reserves of the Army.

17 **“§ 10106. Army National Guard: when a component of**  
18 **the Army**

19 “The Army National Guard while in the service of  
20 the United States is a component of the Army.

21 **“§ 10107. Army National Guard of the United States:**  
22 **status when not in Federal service**

23 “When not on active duty, members of the Army Na-  
24 tional Guard of the United States shall be administered,

1 armed, equipped, and trained in their status as members  
2 of the Army National Guard.

3 **“§ 10108. Naval Reserve: administration**

4 “(a) The Naval Reserve is the reserve component of  
5 the Navy. It shall be organized, administered, trained, and  
6 supplied under the direction of the Chief of Naval Oper-  
7 ations.

8 “(b) The bureaus and offices of the executive part  
9 of the Department of the Navy have the same relation and  
10 responsibility to the Naval Reserve as they do to the Regu-  
11 lar Navy.

12 **“§ 10109. Marine Corps Reserve: administration**

13 “The Marine Corps Reserve is the reserve component  
14 of the Marine Corps. It shall be organized, administered,  
15 trained, and supplied under the direction of the Com-  
16 mandant of the Marine Corps.

17 “(b) The departments and offices of Headquarters,  
18 Marine Corps have the same relation and responsibilities  
19 to the Marine Corps Reserve as they do to the Regular  
20 Marine Corps.

21 **“§ 10110. Air Force Reserve: composition**

22 “The Air Force Reserve is a reserve component of  
23 the Air Force to provide a reserve for active duty. It con-  
24 sists of the members of the officers’ section of the Air  
25 Force Reserve and of the enlisted section of the Air Force

1 Reserve. It includes all Reserves of the Air Force who are  
2 not members of the Air National Guard of the United  
3 States.

4 **“§ 10111. Air National Guard of the United States:**  
5 **composition**

6 “The Air National Guard of the United States is the  
7 reserve component of the Air Force that consists of—

8 “(1) federally recognized units and organiza-  
9 tions of the Air National Guard; and

10 “(2) members of the Air National Guard who  
11 are also Reserves of the Air Force.

12 **“§ 10112. Air National Guard: when a component of**  
13 **the Air Force**

14 “The Air National Guard while in the service of the  
15 United States is a component of the Air Force.

16 **“§ 10113. Air National Guard of the United States: sta-**  
17 **tus when not in Federal service**

18 “When not on active duty, members of the Air Na-  
19 tional Guard of the United States shall be administered,  
20 armed, equipped, and trained in their status as members  
21 of the Air National Guard.

22 **“§ 10114. Coast Guard Reserve**

23 “As provided in section 701 of title 14, the Coast  
24 Guard Reserve is a component of the Coast Guard and  
25 is organized, administered, trained, and supplied under

1 the direction of the Commandant of the Coast Guard.  
 2 Laws applicable to the Coast Guard Reserve are set forth  
 3 in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

4       **“CHAPTER 1005—ELEMENTS OF RESERVE**  
 5                       **COMPONENTS**

“Sec.

“10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.

“10142. Ready Reserve generally.

“10143. Ready Reserve: Selected Reserve.

“10144. Ready Reserve: Individual Ready Reserve.

“10145. Ready Reserve: placement in.

“10146. Ready Reserve: transfer from.

“10147. Ready Reserve: training requirements.

“10148. Ready Reserve: failure to satisfactorily perform prescribed training.

“10149. Ready Reserve: continuous screening.

“10150. Ready Reserve: transfer back from Standby Reserve.

“10151. Standby Reserve: composition.

“10152. Standby Reserve: inactive status list.

“10153. Standby Reserve: status of members.

“10154. Retired Reserve.

6       **“§ 10141. Ready Reserve; Standby Reserve; Retired**  
 7                       **Reserve: placement and status of**  
 8                       **members; training categories**

9       “(a) There are in each armed force a Ready Reserve,  
 10 a Standby Reserve, and a Retired Reserve. Each Reserve  
 11 shall be placed in one of those categories.

12       “(b) Reserves who are on the inactive status list of  
 13 a reserve component, or who are assigned to the inactive  
 14 Army National Guard or the inactive Air National Guard,  
 15 are in an inactive status. Members in the Retired Reserve  
 16 are in a retired status. All other Reserves are in an active  
 17 status.

1 “(c) As prescribed by the Secretary concerned, each  
2 reserve component except the Army National Guard of the  
3 United States and the Air National Guard of the United  
4 States shall be divided into training categories according  
5 to the degrees of training, including the number and dura-  
6 tion of drills or equivalent duties to be completed in stated  
7 periods. The designation of training categories shall be the  
8 same for all armed forces and the same within the Ready  
9 Reserve and the Standby Reserve.

10 **“§ 10142. Ready Reserve**

11 “(a) The Ready Reserve consists of units or Reserves,  
12 or both, liable for active duty as provided in sections  
13 12301 and 12302 of this title.

14 “(b) The authorized strength of the Ready Reserve  
15 is 2,900,000.

16 **“§ 10143. Ready Reserve: Selected Reserve**

17 “(a) Within the Ready Reserve of each of the reserve  
18 components there is a Selected Reserve. The Selected Re-  
19 serve consists of units, and, as designated by the Secretary  
20 concerned, of Reserves, trained as prescribed in section  
21 10147(a)(1) of this title or section 502(a) of title 32, as  
22 appropriate.

23 “(b) The organization and unit structure of the Se-  
24 lected Reserve shall be approved—

1           “(1) in the case of all reserve components other  
2           than the Coast Guard Reserve, by the Secretary of  
3           Defense based upon recommendations from the mili-  
4           tary departments as approved by the Chairman of  
5           the Joint Chiefs of Staff in accordance with contin-  
6           gency and war plans; and

7           “(2) in the case of the Coast Guard Reserve, by  
8           the Secretary of Transportation upon the rec-  
9           ommendation of the Commandant of the Coast  
10          Guard.

11   **“§ 10144. Ready Reserve: Individual Ready Reserve**

12          “Within the Ready Reserve of each of the reserve  
13          components there is an Individual Ready Reserve. The In-  
14          dividual Ready Reserve consists of those members of the  
15          Ready Reserve who are not in the Selected Reserve or the  
16          inactive National Guard.

17   **“§ 10145. Ready Reserve: placement in**

18          “(a) Each person required under law to serve in a  
19          reserve component shall, upon becoming a member, be  
20          placed in the Ready Reserve of his armed force for his  
21          prescribed term of service, unless he is transferred to the  
22          Standby Reserve under section 10146(a) of this title.

23          “(b) The units and members of the Army National  
24          Guard of the United States and of the Air National Guard

1 of the United States are in the Ready Reserve of the Army  
2 and the Ready Reserve of the Air Force, respectively.

3 “(c) All Reserves assigned to units organized to serve  
4 as units and designated as units in the Ready Reserve are  
5 in the Ready Reserve.

6 “(d) Under such regulations as the Secretary con-  
7 cerned may prescribe, any qualified member of a reserve  
8 component or any qualified retired enlisted member of a  
9 regular component may, upon his request, be placed in the  
10 Ready Reserve. However, a member of the Retired Reserve  
11 entitled to retired pay or a retired enlisted member of a  
12 regular component may not be placed in the Ready Re-  
13 serve unless the Secretary concerned makes a special find-  
14 ing that the member’s services in the Ready Reserve are  
15 indispensable. The Secretary concerned may not delegate  
16 his authority under the preceding sentence.

17 **“§ 10146. Ready Reserve: transfer from**

18 “(a) Subject to subsection (c) and under regulations  
19 prescribed by the Secretary of Defense, or by the Sec-  
20 retary of Transportation with respect to the Coast Guard  
21 when it is not operating as a service in the Navy, a mem-  
22 ber in the Ready Reserve may be transferred to the Stand-  
23 by Reserve.

24 “(b) A Reserve who is qualified and so requests may  
25 be transferred to the Retired Reserve under regulations



1 prescribed by the Secretary concerned and, in the case of  
2 the Secretary of a military department, approved by the  
3 Secretary of Defense.

4 “(c) A member of the Army National Guard of the  
5 United States or the Air National Guard of the United  
6 States may be transferred to the Standby Reserve only  
7 with the consent of the governor or other appropriate au-  
8 thority of the State.

9 **“§ 10147. Ready Reserve: training requirements**

10 “(a) Except as specifically provided in regulations to  
11 be prescribed by the Secretary of Defense, or by the Sec-  
12 retary of Transportation with respect to the Coast Guard  
13 when it is not operating as a service in the Navy, each  
14 person who is enlisted, inducted, or appointed in an armed  
15 force, and who becomes a member of the Ready Reserve  
16 under any provision of law except section 513 or 10145(b)  
17 of this title, shall be required, while in the Ready Reserve,  
18 to—

19 “(1) participate in at least 48 scheduled drills  
20 or training periods during each year and serve on  
21 active duty for training of not less than 14 days (ex-  
22 clusive of traveltime) during each year; or

23 “(2) serve on active duty for training not more  
24 than 30 days during each year.

1 “(b) A member who has served on active duty for  
2 one year or longer may not be required to perform a period  
3 of active duty for training if the first day of that period  
4 falls during the last 120 days of the member’s required  
5 membership in the Ready Reserve.

6 **“§ 10148. Ready Reserve: failure to satisfactorily per-**  
7 **form prescribed training**

8 “(a) A member of the Ready Reserve covered by sec-  
9 tion 10147 of this title who fails in any year to perform  
10 satisfactorily the training duty prescribed in that section,  
11 as determined by the Secretary concerned under regula-  
12 tions prescribed by the Secretary of Defense, may be or-  
13 dered without his consent to perform additional active  
14 duty for training for not more than 45 days. If the failure  
15 occurs during the last year of his required membership  
16 in the Ready Reserve, his membership is extended until  
17 he performs that additional active duty for training, but  
18 not for more than six months.

19 “(b) A member of the Army National Guard of the  
20 United States or the Air National Guard of the United  
21 States who fails in any year to perform satisfactorily the  
22 training duty prescribed by or under law for members of  
23 the Army National Guard or the Air National Guard, as  
24 the case may be, as determined by the Secretary con-  
25 cerned, may, upon the request of the Governor of the State

1 (or, in the case of the District of Columbia, the command-  
2 ing general of the District of Columbia National Guard)  
3 be ordered, without his consent, to perform additional ac-  
4 tive duty for training for not more than 45 days. A mem-  
5 ber ordered to active duty under this subsection shall be  
6 ordered to duty as a Reserve of the Army or as a Reserve  
7 of the Air Force, as the case may be.

8 **“§ 10149. Ready Reserve: continuous screening**

9 “(a) Under regulations to be prescribed by the Presi-  
10 dent, the Secretary concerned shall provide a system of  
11 continuous screening of units and members of the Ready  
12 Reserve to ensure the following:

13 “(1) That there will be no significant attrition  
14 of those members or units during a mobilization.

15 “(2) That there is a proper balance of military  
16 skills.

17 “(3) That except for those with military skills  
18 for which there is an overriding requirement, mem-  
19 bers having critical civilian skills are not retained in  
20 numbers beyond the need for those skills.

21 “(4) That with due regard to national security  
22 and military requirements, recognition will be given  
23 to participation in combat.

24 “(5) That members whose mobilization in an  
25 emergency would result in an extreme personal or

1 community hardship are not retained in the  
2 Ready Reserve.

3 “(b) Under regulations to be prescribed by the Sec-  
4 retary of Defense, and by the Secretary of Transportation  
5 with respect to the Coast Guard when it is not operating  
6 as a service in the Navy, a member of the Ready Reserve  
7 who is designated as a member not to be retained in the  
8 Ready Reserve as a result of screening under subsection  
9 (a) shall, as appropriate, be—

10 “(1) transferred to the Standby Reserve;

11 “(2) discharged; or

12 “(3) if the member is eligible and applies there-  
13 for, transferred to the Retired Reserve.

14 **“§ 10150. Ready Reserve: transfer back from Standby**  
15 **Reserve**

16 “Under regulations to be prescribed by the Secretary  
17 of Defense, and by the Secretary of Transportation with  
18 respect to the Coast Guard when it is not operating as  
19 a service in the Navy, a member of the Standby Reserve  
20 who has not completed his required period of service in  
21 the Ready Reserve may be transferred to the Ready Re-  
22 serve when the reason for his transfer to the Standby Re-  
23 serve no longer exists.

1 **“§ 10151. Standby Reserve: composition**

2 “The Standby Reserve consists of those units or  
3 members, or both, of the reserve components, other than  
4 those in the Ready Reserve or Retired Reserve, who are  
5 liable for active duty only as provided in sections 12301  
6 and 12306 of this title.

7 **“§ 10152. Standby Reserve: inactive status list**

8 “(a) An inactive status list shall be maintained in the  
9 Standby Reserve. Whenever an authority designated by  
10 the Secretary concerned considers that it is in the best  
11 interest of the armed force concerned, a member in the  
12 Standby Reserve who is not required to remain a Reserve,  
13 and who cannot participate in prescribed training, may,  
14 if qualified, be transferred to the inactive status list under  
15 regulations to be prescribed by the Secretary concerned.  
16 These regulations shall fix the conditions under which  
17 such a member is entitled to be returned to an active  
18 status.

19 **“§ 10153. Standby Reserve: status of members**

20 “While in an inactive status, a Reserve is not eligible  
21 for pay or promotion and (as provided in section 12734(a)  
22 of this title) does not accrue credit for years of service  
23 under chapter 1223 of this title.

24 **“§ 10154. Retired Reserve**

25 “The Retired Reserve consists of the following  
26 Reserves:

4           “(2) Reserves who have been transferred to the  
5       Retired Reserve upon their request, retain their  
6       status as Reserves, and are otherwise qualified.

- “Sec.
- “10201. Assistant Secretary of Defense for Reserve Affairs.
- “10202. Regulations.
- “10203. Reserve affairs: designation of general or flag officer of each armed force.
- “10204. Personnel records.
- “10205. Members of Individual Ready Reserve: requirement of notification of change of status.
- “10206. Members: periodic physical examinations.
- “10207. Mobilization forces: maintenance.
- “10208. Annual mobilization exercise.
- “10209. Regular and reserve components: discrimination prohibited.
- “10210. Dissemination of information.
- “10211. Policies and regulations: participation of reserve officers in preparation and administration.
- “10212. Reserve components: dual membership prohibited.
- “10213. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
- “10214. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

11        “As provided in section 136(b)(2) of this title, the  
12        official in the Department of Defense with responsibility  
13        for overall supervision of reserve component affairs of the  
14        Department of Defense is the Assistant Secretary of  
15        Defense for Reserve Affairs.

1 **“§ 10202. Regulations**

2       “(a) Subject to standards, policies, and procedures  
3 prescribed by the Secretary of Defense, the Secretary of  
4 each military department shall prescribe such regulations  
5 as the Secretary considers necessary to carry out provi-  
6 sions of law relating to the reserve components under  
7 the Secretary’s jurisdiction.

8       “(b) The Secretary of Transportation, with the con-  
9 currence of the Secretary of the Navy, shall prescribe such  
10 regulations as the Secretary considers necessary to carry  
11 out all provisions of law relating to the reserve components  
12 insofar as they relate to the Coast Guard, except when  
13 the Coast Guard is operating as a service in the Navy.

14       “(c) So far as practicable, regulations for all reserve  
15 components shall be uniform.

16 **“§ 10203. Reserve affairs: designation of general or**  
17 **flag officer of each armed force**

18       “(a) The Secretary of the Army may designate a gen-  
19 eral officer of the Army to be directly responsible for  
20 reserve affairs to the Chief of Staff of the Army.

21       “(b) The Secretary of the Navy may designate a flag  
22 officer of the Navy to be directly responsible for reserve  
23 affairs to the Chief of Naval Operations and a general offi-  
24 cer of the Marine Corps to be directly responsible for re-  
25 serve affairs to the Commandant of the Marine Corps.

1       “(c) The Secretary of the Air Force may designate  
2 a general officer of the Air Force to be directly responsible  
3 for reserve affairs to the Chief of Staff of the Air Force.

4       “(d) The Secretary of Transportation may designate  
5 a flag officer of the Coast Guard to be directly responsible  
6 for reserve affairs to the Commandant of the Coast Guard.

7       “(e) This section does not affect the functions of the  
8 Chief of the National Guard Bureau, the Chief of Army  
9 Reserve, or the Chief of Air Force Reserve.

10 **“§ 10204. Personnel records**

11       “(a) The Secretary concerned shall maintain ade-  
12 quate and current personnel records of each member of  
13 the reserve components under the Secretary’s jurisdiction  
14 showing the following with respect to the member:

15               “(1) Physical condition.

16               “(2) Dependency status.

17               “(3) Military qualifications.

18               “(4) Civilian occupational skills.

19               “(5) Availability for service.

20               “(6) Such other information as the Secretary  
21 concerned may prescribe.

22       “(b) Under regulations to be prescribed by the Sec-  
23 retary of Defense, the Secretary of each military depart-  
24 ment shall maintain a record of the number of members  
25 of each class of each reserve component who, during each



1 fiscal year, have participated satisfactorily in active duty  
2 for training and inactive duty training with pay.

3 **“§ 10205. Members of Ready Reserve: requirement of**  
4 **notification of change of status**

5 “(a) Each member of the Ready Reserve shall notify  
6 the Secretary concerned of any change in the member’s  
7 address, marital status, number of dependents, or civilian  
8 employment and of any change in the member’s physical  
9 condition that would prevent the member from meeting  
10 the physical or mental standards prescribed for the mem-  
11 ber’s armed force.

12 “(b) This section shall be administered under regula-  
13 tions prescribed by the Secretary of Defense and by the  
14 Secretary of Transportation with respect to the Coast  
15 Guard when it is not operating as a service in the Navy.

16 **“§ 10206. Members: periodic physical examinations**

17 “(a) Each member of the Ready Reserve who is not  
18 on active duty shall—

19 “(1) be examined as to his physical fitness  
20 every four years, or more often as the Secretary con-  
21 cerned considers necessary; and

22 “(2) execute and submit annually to the Sec-  
23 retary concerned a certificate of physical condition.  
24 Each Reserve in an active status, or on an inactive status  
25 list, who is not on active duty shall execute and submit

1 annually to the Secretary concerned a certificate of phys-  
2 ical condition.

3 “(b) The kind of duty to which a Reserve ordered  
4 to active duty may be assigned shall be considered in de-  
5 termining physical qualifications for active duty.

6 **“§ 10207. Mobilization forces: maintenance**

7 “(a) Whenever units or members of the reserve com-  
8 ponents are ordered to active duty (other than for train-  
9 ing) during a period of partial mobilization, the Secretary  
10 concerned shall continue to maintain mobilization forces  
11 by planning and budgeting for the continued organization  
12 and training of the reserve components not mobilized, and  
13 make the fullest practicable use of the Federal facilities  
14 vacated by mobilized units, consistent with approved joint  
15 mobilization plans.

16 “(b) In this section, the term ‘partial mobilization’  
17 means the mobilization resulting from action by Congress  
18 or the President, under any law, to bring units of any re-  
19 serve component, and members not assigned to units orga-  
20 nized to serve as units, to active duty for a limited expan-  
21 sion of the active armed forces.

22 **“§ 10208. Annual mobilization exercise**

23 “(a) The Secretary of Defense shall conduct at least  
24 one major mobilization exercise each year. The exercise  
25 should be as comprehensive and as realistic as possible

1 and should include the participation of associated active  
2 component and reserve component units.

3 “(b) The Secretary shall maintain a plan to test peri-  
4 odically each active component and reserve component  
5 unit based in the United States and all interactions of  
6 such units, as well as the sustainment of the forces mobi-  
7 lized as part of the exercise, with the objective of permit-  
8 ting an evaluation of the adequacy of resource allocation  
9 and planning.

10 **“§ 10209. Regular and reserve components: discrimi-**  
11 **nation prohibited**

12 “Laws applying to both Regulars and Reserves shall  
13 be administered without discrimination—

14 “(1) among Regulars;

15 “(2) among Reserves; and

16 “(3) between Regulars and Reserves.

17 **“§ 10210. Dissemination of information**

18 “The Secretary of Defense shall require the complete  
19 and current dissemination, to all Reserves and to the pub-  
20 lic, of information of interest to the reserve components.

21 **“§ 10211. Policies and regulations: participation of**  
22 **Reserve officers in preparation and ad-**  
23 **ministration**

24 “Within such numbers and in such grades and as-  
25 signments as the Secretary concerned may prescribe, each

1 armed force shall have officers of its reserve components  
2 on active duty (other than for training) at the seat of gov-  
3 ernment, and at headquarters responsible for reserve af-  
4 fairs, to participate in preparing and administering the  
5 policies and regulations affecting those reserve compo-  
6 nents. While so serving, such an officer is an additional  
7 number of any staff with which he is serving.

8 **“§ 10212. Reserve components: dual membership pro-**  
9 **hibited**

10 “Except as otherwise provided in this title, no person  
11 may be a member of more than one reserve component  
12 at the same time.

13 **“§ 10213. Adjutants general and assistant adjutants**  
14 **general: reference to other officers of Na-**  
15 **tional Guard**

16 “In any case in which, under the laws of a State,  
17 an officer of the National Guard of that jurisdiction, other  
18 than the adjutant general or an assistant adjutant gen-  
19 eral, normally performs the duties of that office, the ref-  
20 erences in sections 12004(b)(1), 12215, 12642(c),  
21 14507(b), 14508(e), and 14512 of this title to the adju-  
22 tant general or the assistant adjutant general shall be ap-  
23 plied to that officer instead of to the adjutant general or  
24 assistant adjutant general.

1 **“§ 10214. Officers of Army National Guard of the**  
2 **United States and Air National Guard of**  
3 **the United States: authority with respect**  
4 **to Federal status**

5 “(a)(1) Officers of the Army National Guard of the  
6 United States who are not on active duty—

7 “(A) may order members of the Army National  
8 Guard of the United States to active duty for train-  
9 ing under section 12301(d) of this title; and

10 “(B) with the approval of the Secretary of the  
11 Air Force, may order members of the Air National  
12 Guard of the United States to active duty for train-  
13 ing under that section.

14 “(2) Officers of the Air National Guard of the United  
15 States who are not on active duty—

16 “(A) may order members of the Air National  
17 Guard of the United States to active duty for train-  
18 ing under section 12301(d) of this title; and

19 “(B) with the approval of the Secretary of the  
20 Army, may order members of the Army National  
21 Guard of the United States to active duty for train-  
22 ing under that section.

23 “(b) Officers of the Army National Guard of the  
24 United States or the Air National Guard of the United  
25 States who are not on active duty—

1           “(1) may enlist, reenlist, or extend the enlist-  
2       ments of persons as Reserves of the Army or Re-  
3       serves of the Air Force for service in the Army  
4       National Guard of the United States or the Air Na-  
5       tional Guard of the United States, as the case may  
6       be; and

7           “(2) with respect to their Federal status, may  
8       promote or discharge persons enlisted or reenlisted  
9       as Reserves of the Army or Reserves of the Air  
10      Force for that service.

11       “(c) This section shall be carried out under regula-  
12     tions prescribed by the Secretary of the Army, with re-  
13     spect to matters concerning the Army, and by the  
14     Secretary of the Air Force, with respect to matters con-  
15     cerning the Air Force.”.

16       (2)(A) Sections 261 through 265 and 267 through  
17     281 are repealed.

18       (B) Chapter 11 is amended by striking out the table  
19     of sections at the beginning and inserting in lieu thereof  
20     the following:

“Sec.

“261. Reference to chapters 1003, 1005, and 1007.

21     **“§ 261. Reference to chapters 1003, 1005, and 1007**

22       “Provisions of law relating to the reserve components  
23     generally, including provisions relating to the organization  
24     and administration of the reserve components, are set

1 forth in chapter 1003 (beginning with section 10101),  
 2 chapter 1005 (beginning with section 10141), and chapter  
 3 1007 (beginning with section 10201) of this title.”.

4 (3)(A) Chapter 519 and sections 652, 2001, 3076  
 5 through 3080, and 8076 through 8080 are repealed.

6 (B) Section 552(e) of Public Law 98–525 is repealed.

7 (4) Section 1004 is amended—

8 (A) by striking out subsections (a) and (b); and

9 (B) by striking out “(c)” before “Except as  
 10 otherwise provided”.

11 (5)(A) Section 10147(a), as added by paragraph (1),  
 12 applies only to persons who were inducted, enlisted, or ap-  
 13 pointed in an armed force after August 9, 1955.

14 (B) Section 10148(b), as added by paragraph (1), ap-  
 15 plies only to persons who became members of the Army  
 16 National Guard of the United States or the Air National  
 17 Guard of the United States after October 4, 1961.

18 (b) **BOARDS AND COMMITTEES.**—(1) Part I of sub-  
 19 title E (as added by subsection (a)) is amended by adding  
 20 at the end the following:

21 **“CHAPTER 1009—RESERVE FORCES POLICY**

22 **BOARDS AND COMMITTEES**

“Sec.

“10301. Reserve Forces Policy Board.

“10302. Army Reserve Forces Policy Committee.

“10303. Naval Reserve Policy Board.

“10304. Marine Corps Reserve Policy Board.

“10305. Air Force Reserve Forces Policy Committee.

1 **“§ 10301. Reserve Forces Policy Board**

2 “(a) There is in the Office of the Secretary of De-  
3 fense a Reserve Forces Policy Board. The Board consists  
4 of the following:

5 “(1) A civilian chairman appointed by the Sec-  
6 retary of Defense.

7 “(2) The Assistant Secretary of the Army for  
8 Manpower and Reserve Affairs, the Assistant Sec-  
9 retary of the Navy for Manpower and Reserve Af-  
10 fairs, and the Assistant Secretary of the Air Force  
11 for Manpower and Reserve Affairs.

12 “(3) An officer of the Regular Army designated  
13 by the Secretary of the Army.

14 “(4) An officer of the Regular Navy or Regular  
15 Marine Corps designated by the Secretary of the  
16 Navy.

17 “(5) An officer of the Regular Air Force des-  
18 igned by the Secretary of the Air Force.

19 “(6) Four reserve officers designated by the  
20 Secretary of Defense upon the recommendation of  
21 the Secretary of the Army, two of whom must be  
22 members of the Army National Guard of the United  
23 States, and two of whom must be members of the  
24 Army Reserve.

25 “(7) Four reserve officers designated by the  
26 Secretary of Defense upon the recommendation of



1 the Secretary of the Navy, two of whom must be  
2 members of the Naval Reserve, and two of whom  
3 must be members of the Marine Corps Reserve.

4 “(8) Four reserve officers designated by the  
5 Secretary of Defense upon the recommendation of  
6 the Secretary of the Air Force, two of whom must  
7 be members of the Air National Guard of the United  
8 States, and two of whom must be members of the  
9 Air Force Reserve.

10 “(9) A reserve officer of the Army, Navy, Air  
11 Force, or Marine Corps who is a general officer or  
12 flag officer designated by the Chairman of the  
13 Board with the approval of the Secretary of Defense,  
14 and who serves without vote as military adviser to  
15 the Chairman and as executive officer of the Board.

16 “(b) Whenever the Coast Guard is not operating as  
17 a service in the Navy, the Secretary of Transportation  
18 may designate two officers of the Coast Guard, Regular  
19 or Reserve, to serve as voting members of the Board.

20 “(c) The Board, acting through the Assistant  
21 Secretary of Defense for Reserve Affairs, is the principal  
22 policy adviser to the Secretary of Defense on matters re-  
23 lating to the reserve components.

1 “(d) This section does not affect the committees on  
2 reserve policies prescribed within the military departments  
3 by sections 10302 through 10305 of this title.

4 “(e) A member of a committee or board prescribed  
5 under a section listed in subsection (d) may, if otherwise  
6 eligible, be a member of the Reserve Forces Policy Board.

7 “(f) The Board shall act on those matters referred  
8 to it by the Chairman and, in addition, on any matter  
9 raised by a member of the Board.

10 **“§ 10303. Naval Reserve Policy Board**

11 “A Naval Reserve Policy Board shall be convened at  
12 least once annually at the seat of government to consider,  
13 recommend, and report to the Secretary of the Navy on  
14 reserve policy matters. At least half of the members of  
15 the Board must be officers of the Naval Reserve.

16 **“§ 10304. Marine Corps Reserve Policy Board**

17 “A Marine Corps Reserve Policy Board shall be con-  
18 vened at least once annually at the seat of government  
19 to consider, recommend, and report to the Secretary of  
20 the Navy on reserve policy matters. At least half of the  
21 members of the Board must be officers of the Marine  
22 Corps Reserve.”.

23 (2)(A) Section 3021 is transferred to chapter 1009  
24 (as added by paragraph (1)), inserted after section 10301,  
25 and redesignated as section 10302.

1 (B) Section 8021 is transferred to chapter 1009 (as  
2 added by paragraph (1)), inserted after section 10304,  
3 and redesignated as section 10305.

4 (3) The text of section 175 is amended to read as  
5 follows:

6 “There is in the Office of the Secretary of Defense  
7 a Reserve Forces Policy Board. The functions, member-  
8 ship, and organization of that board are set forth in sec-  
9 tion 10301 of this title.”.

10 (4)(A) Chapter 303 (as amended by paragraph  
11 (2)(A)) is amended by adding at the end the following:

12 **“§ 3021. Army Reserve Forces Policy Committee**

13 “There is in the Office of the Secretary of the Army  
14 an Army Reserve Forces Policy Committee. The functions,  
15 membership, and organization of that committee are set  
16 forth in section 10302 of this title.”.

17 (B) Chapter 803 (as amended by paragraph (2)(B))  
18 is amended by adding at the end the following:

19 **“§ 8021. Air Force Reserve Forces Policy Committee**

20 “There is in the Office of the Secretary of the Air  
21 Force an Air Force Reserve Forces Policy Committee. The  
22 functions, membership, and organization of that commit-  
23 tee are set forth in section 10305 of this title.”.

24 (c) NATIONAL GUARD BUREAU.—(1) Part I of sub-  
25 title E, as added by subsection (a), is amended by adding

1 after chapter 1009, as added by subsection (b), the follow-  
 2 ing:

3 **“CHAPTER 1011—NATIONAL GUARD BUREAU**

“Sec.

“10501. National Guard Bureau: organization; function.

“10502. Chief of Bureau: appointment.

“10503. Chief of Bureau: term of office; grade; filling vacancy.

“10504. National Guard Bureau: assignment of officers of regular or reserve  
 components.

4 **“§ 10501. National Guard Bureau: organization; func-**  
 5 **tion**

6 “There is a National Guard Bureau, which is a joint  
 7 bureau of the Department of the Army and the Depart-  
 8 ment of the Air Force. The National Guard Bureau is the  
 9 channel of communication between the departments con-  
 10 cerned and the several States, Territories, Puerto Rico,  
 11 and the District of Columbia on all matters pertaining to  
 12 the National Guard, the Army National Guard of the  
 13 United States, and the Air National Guard of the United  
 14 States.

15 **“§ 10502. Chief of Bureau: appointment**

16 “(a) CHIEF.—The National Guard Bureau is headed  
 17 by a chief who is the adviser to the Army Chief of Staff  
 18 and the Air Force Chief of Staff on National Guard  
 19 matters.

20 “(b) APPOINTMENT.—The President, by and with the  
 21 advice and consent of the Senate, shall appoint the Chief  
 22 of the Bureau from officers of the Army National Guard

1 of the United States or the Air National Guard of the  
2 United States who—

3 “(1) have been recommended by their respective  
4 governors;

5 “(2) have had at least 10 years of commis-  
6 sioned service in the active National Guard; and

7 “(3) are in a grade above lieutenant colonel.

8 **“§ 10503. Chief of Bureau: term of office; grade; filling**  
9 **vacancy**

10 “(a) TERM OF OFFICE.—The Chief of the National  
11 Guard Bureau holds office for four years, but may be re-  
12 moved for cause at any time. An officer may not hold the  
13 office of Chief of the Bureau after attaining 64 years of  
14 age. He is eligible to succeed himself. While holding that  
15 office, the Chief of the Bureau may not be removed from  
16 the reserve active-status list, or from an active status,  
17 under any provision of law that otherwise would require  
18 such removal due to completion of a specified number of  
19 years of service or a specified number of years of service  
20 in grade.

21 “(b) GRADE WHILE SERVING.—If an officer ap-  
22 pointed as Chief of the National Guard Bureau holds a  
23 lower reserve grade, the officer shall be appointed as a  
24 Reserve in his armed force in the grade of major general  
25 for service in the Army National Guard of the United

1 States or the Air National Guard of the United States,  
2 as the case may be, while serving as Chief of the Bureau.

3 “(c) DISABILITY; VACANCY.—If the Chief of the Bu-  
4 reau is unable, because of disability, to perform the func-  
5 tions of his office, or if that office is vacant, the senior  
6 officer of the Army National Guard of the United States  
7 or the Air National Guard of the United States on duty  
8 in the Bureau shall act as its chief until the disability  
9 ceases or a successor is appointed.

10 **“§ 10504. National Guard Bureau: assignment of offi-**  
11 **cers of regular or reserve components**

12 “Except as provided in section 12402(b) of this title,  
13 the President may assign to duty in the National Guard  
14 Bureau as many regular or reserve officers of the Army  
15 and the Air Force as he considers necessary.”.

16 (2) Sections 3040, 3541, and 8541 are repealed.

17 (d) ANNUAL REPORT ON GUARD AND RESERVE  
18 EQUIPMENT.—(1) Part I of subtitle E, as added by sub-  
19 section (a), is amended by adding after chapter 1011, as  
20 added by subsection (c), the following:

21 **“CHAPTER 1013—BUDGET INFORMATION AND**  
22 **ANNUAL REPORTS TO CONGRESS**

“Sec.

“10541. National Guard and reserve component equipment: annual report to Congress.”.

1 (2) Section 115b is transferred to chapter 1013, as  
 2 added by paragraph (1), inserted after the table of sec-  
 3 tions, and redesignated as section 10541.

4 (3) The heading of that section is amended to read  
 5 as follows:

6 **“§ 10541. National Guard and reserve component**  
 7 **equipment: annual report to Congress”.**

8 **SEC. 302. LAWS RELATING TO RESERVE COMPONENT PER-**  
 9 **SONNEL POLICY.**

10 (a) STRENGTH AND DISTRIBUTION IN GRADE.—(1)  
 11 Subtitle E, as added by section 101, is amended by insert-  
 12 ing after part I of such subtitle, as added by section 301,  
 13 the following:

14 **“PART II—PERSONNEL GENERALLY**

| “Chap.                                                                      | Sec.  |
|-----------------------------------------------------------------------------|-------|
| “1201. Authorized Strengths and Distribution in Grade .....                 | 12001 |
| “1203. Enlisted Members .....                                               | 12101 |
| “1205. Appointment of Reserve Officers .....                                | 12201 |
| “1207. Warrant Officers .....                                               | 12241 |
| “1209. Active Duty .....                                                    | 12301 |
| “1211. National Guard Members in Federal Service .....                      | 12401 |
| “1213. Special Appointments, Assignments, Details, and Duties .....         | 12501 |
| “1215. Miscellaneous Prohibitions and Penalties ..... [No present sections] |       |
| “1217. Miscellaneous Rights and Benefits .....                              | 12601 |
| “1219. Standards and Procedures for Retention and Promotion .....           | 12641 |
| “1221. Separation .....                                                     | 12681 |
| “1223. Retired Pay for Non-Regular Service .....                            | 12731 |
| “1225. Retired Grade .....                                                  | 12771 |

15 **“CHAPTER 1201—AUTHORIZED STRENGTHS AND**  
 16 **DISTRIBUTION IN GRADE**

| “Sec.                                                                                                          |
|----------------------------------------------------------------------------------------------------------------|
| “12001. Authorized strengths: reserve components.                                                              |
| “12002. Authorized strengths: Army and Air Force reserve components, exclu-<br>sive of members on active duty. |
| “12003. Authorized strengths: commissioned officers active status.                                             |

- “12004. Strength in grade: reserve general and flag officers in an active status.
- “12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.
- “12006. Strength limitations: authority to waive in time of war or national emergency.
- “12007. Reserve officers of the Army: distribution.
- “12008. Army Reserve and Air Force Reserve: warrant officers.
- “12009. Army and Air Force reserve components: temporary increases.
- “12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.
- “12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.
- “12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

1 **“§ 12001. Authorized strengths: reserve components**

2       “(a) Whenever the authorized strength of a reserve  
3 component (other than the Coast Guard Reserve) is not  
4 prescribed by law, it shall be prescribed by the President.

5       “(b) Subject to the authorized strength of the reserve  
6 component concerned, the authorized strength of each re-  
7 serve component (other than the Coast Guard Reserve)  
8 in members in each grade is that which the Secretary con-  
9 cerned determines to be necessary to provide for mobiliza-  
10 tion requirements. The Secretary shall review these deter-  
11 minations at least once each year and revise them if he  
12 considers it necessary. However, a member of the reserve  
13 component concerned may not, as a result of such a deter-  
14 mination, be reduced in the member’s reserve grade with-  
15 out the member’s consent.



1 **“§ 12002. Authorized strengths: Army and Air Force**  
 2 **reserve components, exclusive of mem-**  
 3 **bers on active duty**

4 “(a) The authorized strengths of the National Guard  
 5 and the reserve components of the Army and the Air  
 6 Force, exclusive of members who are included in the  
 7 strengths authorized for members of the Army and Air  
 8 Force, respectively, on active duty, are as follows:

|                                                                                |          |
|--------------------------------------------------------------------------------|----------|
| “Army National Guard and the Army National Guard of the<br>United States ..... | 600,000  |
| “Army Reserve .....                                                            | 980,000  |
| “Air National Guard and the Air National Guard of the<br>United States .....   | 150,000  |
| “Air Force Reserve .....                                                       | 500,000. |

9 “(b) The strength authorized by this section for the  
 10 Army National Guard and the Army National Guard of  
 11 the United States, and the strength authorized by this sec-  
 12 tion for the Air National Guard and the Air National  
 13 Guard of the United States, shall be allocated among the  
 14 States.

15 **“§ 12003. Authorized strengths: commissioned offi-**  
 16 **cers in an active status**

17 “(a) The authorized strengths of the Army, Navy, Air  
 18 Force, and Marine Corps in reserve commissioned officers,  
 19 other than commissioned warrant officers and officers on  
 20 an active-duty list, in an active status are as follows:

|                     |         |
|---------------------|---------|
| “Army .....         | 275,000 |
| “Air Force .....    | 200,000 |
| “Navy .....         | 150,000 |
| “Marine Corps ..... | 24,500. |

1 “(b) The authorized strengths prescribed by sub-  
2 section (a) may not be exceeded unless—

3 “(1) the Secretary concerned determines that a  
4 greater number is necessary for planned mobilization  
5 requirements; or

6 “(2) the excess results directly from the oper-  
7 ation of a nondiscretionary provision of law.

8 **“§ 12004. Strength in grade: reserve general and flag**  
9 **officers in an active status**

10 “(a) The authorized strengths of the Army, Air  
11 Force, and Marine Corps in reserve general officers in an  
12 active status, and the authorized strength of the Navy in  
13 reserve officers in the grades of rear admiral (lower half)  
14 and rear admiral in an active-status, are as follows:

|                     |     |
|---------------------|-----|
| “Army .....         | 207 |
| “Air Force .....    | 157 |
| “Navy .....         | 48  |
| “Marine Corps ..... | 10. |

15 “(b) The following Army and Air Force reserve offi-  
16 cers shall not be counted for purposes of this section:

17 “(1) Those serving as adjutants general or as-  
18 sistant adjutants general of a State.

19 “(2) Those serving in the National Guard Bu-  
20 reau.

21 “(3) Those counted under section 526 of this  
22 title.

1       “(c)(1) The authorized strength of the Navy under  
 2 subsection (a) is exclusive of officers counted under section  
 3 526 of this title. Of the number authorized under sub-  
 4 section (a), 39 are distributed among the line and the staff  
 5 corps as follows:

|                                       |    |
|---------------------------------------|----|
| “Line .....                           | 28 |
| “Medical Corps .....                  | 5  |
| “Chaplain Corps .....                 | 1  |
| “Judge Advocate General’s Corps ..... | 1  |
| “Dental Corps .....                   | 2. |
| “Nurse Corps .....                    | 1. |
| “Medical Service Corps .....          | 1. |

6       “(2) The remaining authorizations for the Navy  
 7 under subsection (a) shall be distributed among such other  
 8 staff corps as are established by the Secretary of the Navy  
 9 under the authority provided by section 5150(b) of this  
 10 title, except that—

11           “(A) if the Secretary has established a Supply  
 12 Corps, the authorized strength for the Supply Corps  
 13 shall be seven; and

14           “(B) if the Secretary has established a Civil  
 15 Engineering Corps, the authorized strength for the  
 16 Civil Engineering Corps shall be two.

17       “(3) Not more than 50 percent of the officers in an  
 18 active status authorized under this section for the Navy  
 19 may serve in the grade of rear admiral.

20       “(d) The authorized strength of the Marine Corps  
 21 under subsection (a) is exclusive of those counted under  
 22 section 526 of this title.

1 “(e)(1) A reserve general officer of the Army or Air  
2 Force may not be reduced in grade because of a reduction  
3 in the number of general officers authorized under  
4 subsection (a).

5 “(2) An officer of the Naval Reserve or the Marine  
6 Corps Reserve may not be reduced in permanent grade  
7 because of a reduction in the number authorized by this  
8 section for his grade.

9 **“§ 12005. Strength in grade: commissioned officers in**  
10 **grades below brigadier general or rear**  
11 **admiral (lower half) in an active status**

12 “(a)(1) Subject to paragraph (2), the authorized  
13 strength of the Army and the Air Force in reserve commis-  
14 sioned officers in an active status in each grade named  
15 in paragraph (2) is as prescribed by the Secretary of the  
16 Army or the Secretary of the Air Force, respectively. A  
17 vacancy in any grade may be filled by an authorized ap-  
18 pointment in any lower grade.

19 “(2) A strength prescribed by the Secretary con-  
20 cerned under paragraph (1) for a grade may not be higher  
21 than the percentage of the strength authorized for the  
22 Army or the Air Force, as the case may be, under section  
23 12003 of this title that is specified for that grade as  
24 follows:

| Grade                                                                                                                                                | Army percentage | Air Force percentage |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------|
| Colonel .....                                                                                                                                        | 2               | 1.8                  |
| Lieutenant colonel .....                                                                                                                             | 6               | 4.6                  |
| Major .....                                                                                                                                          | 13              | 14.0                 |
| Captain .....                                                                                                                                        | 35              | 32.0                 |
| First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title) ..... | 44              | 47.6                 |

1       “(b)(1) The authorized strengths of the Naval Re-  
2     serve in line officers in an active status in the grades of  
3     captain, commander, lieutenant commander, and lieuten-  
4     ant, and in the grades of lieutenant (junior grade) and  
5     ensign combined, are the following percentages of the total  
6     authorized number of those officers:

|                                                                                                                                                  |               |
|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| “Captain .....                                                                                                                                   | 1.5 percent   |
| “Commander .....                                                                                                                                 | 7 percent     |
| “Lieutenant commander .....                                                                                                                      | 22 percent    |
| “Lieutenant .....                                                                                                                                | 37 percent    |
| “Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title) ..... | 32.5 percent. |

7       “(2) When the actual number of line officers in an  
8     active status in any grade is less than the number author-  
9     ized by paragraph (1) for that grade, the difference may  
10    be applied to increase the number authorized by that para-  
11    graph for any lower grade or grades.

12       “(c)(1) The authorized strengths of the Marine Corps  
13     Reserve in officers in an active status in the grades of  
14     colonel, lieutenant colonel, major, and captain, and in the  
15     grades of first lieutenant and second lieutenant combined,  
16     are the following percentages of the total authorized num-  
17     ber of those officers:

|                                                                                                                                                               |      |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|
| “Colonel .....                                                                                                                                                | 2    | percent  |
| “Lieutenant colonel .....                                                                                                                                     | 6    | percent  |
| “Major .....                                                                                                                                                  | 12   | percent  |
| “Captain .....                                                                                                                                                | 35   | percent  |
| “First lieutenant and second lieutenant (when combined with<br>the number authorized for general officer grades under sec-<br>tion 12004 of this title) ..... | 32.5 | percent. |

1       “(2) When the actual number of officers in an active  
2 status in any grade is less than the number authorized  
3 by paragraph (1) for that grade, the difference may be  
4 applied to increase the number authorized by that para-  
5 graph for any lower grade or grades.

6       “(d)(1) An officer of the Army or Air Force may not  
7 be reduced in grade because of a reduction in the number  
8 of commissioned officers authorized for the officer’s grade  
9 under this section.

10       “(2) An officer of the Naval Reserve or the Marine  
11 Corps Reserve may not be reduced in permanent grade  
12 because of a reduction in the number authorized by this  
13 section for his grade.

14       **“§ 12006. Strength limitations: authority to waive in**  
15                               **time of war or national emergency**

16       “(a) In time of war, or of national emergency de-  
17 clared by Congress or the President, the President may  
18 suspend the operation of any provision of section 12003,  
19 12004, or 12005 of this title. So long as any such war  
20 or national emergency continues, any such suspension may  
21 be extended by the President.

1       “(b) Any suspension under subsection (a) shall, if not  
2 sooner ended, end on the last day of the two-year period  
3 beginning on the date on which the suspension (or the last  
4 extension thereof) takes effect or on the last day of the  
5 one-year period beginning on the date of the termination  
6 of the war or national emergency, whichever occurs first.  
7 With respect to the end of any such suspension, the pre-  
8 ceding sentence supersedes the provisions of title II of the  
9 National Emergencies Act (50 U.S.C. 1621, 1622) which  
10 provide that powers or authorities exercised by reason of  
11 a national emergency shall cease to be exercised after the  
12 date of termination of the emergency.

13 **“§ 12007. Reserve officers of the Army: distribution**

14       “The Secretary of the Army shall distribute the num-  
15 ber of reserve commissioned officers, other than commis-  
16 sioned warrant officers, authorized in each commissioned  
17 grade between those assigned to reserve units organized  
18 to serve as units and those not assigned to such units.  
19 The Secretary shall distribute the number who are as-  
20 signed to reserve units organized to serve as units among  
21 the units of each reserve component by prescribing appro-  
22 priate tables of organization and tables of distribution.  
23 The Secretary shall distribute the number who are not as-  
24 signed to such units between—

25               “(1) each special branch; and

1           “(2) all other branches taken together.

2   **“§ 12008. Army Reserve and Air Force Reserve: war-**  
3           **rant officers**

4           “The Secretary of the Army may prescribe the au-  
5   thorized strength of the Army Reserve in warrant officers.

6   The Secretary of the Air Force may prescribe the author-  
7   ized strength of the Air Force Reserve in warrant officers.

8   **“§ 12009. Army and Air Force reserve components:**  
9           **temporary increases**

10          “(a) The authorized strength in any reserve grade,  
11   as prescribed under this chapter, for any reserve compo-  
12   nent under the jurisdiction of the Secretary of the Army  
13   or the Secretary of the Air Force is automatically in-  
14   creased to the minimum extent necessary to give effect  
15   to each appointment made in that grade under section  
16   1211(a), 3036, 14304(b), 14314, or 14317 of this title.

17          “(b) An authorized strength so increased is increased  
18   for no other purpose. While an officer holds that grade,  
19   the officer whose appointment caused the increase is  
20   counted for the purpose of determining when other ap-  
21   pointments, not under those sections, may be made in that  
22   grade.



1 **“§ 12010. Computations for Naval Reserve and Ma-**  
 2 **rine Corps Reserve: rule when fraction**  
 3 **occurs in final result**

4 “When there is a fraction in the final result of any  
 5 computation under this chapter for the Naval Reserve or  
 6 the Marine Corps Reserve, a fraction of one-half or more  
 7 is counted as one, and a fraction of less than one-half is  
 8 disregarded.

9 **“§ 12012. Authorized strengths: senior enlisted mem-**  
 10 **bers on active duty or on full-time Na-**  
 11 **tional Guard duty for administration of**  
 12 **the reserves or National Guard**

13 “(a) The number of enlisted members in pay grades  
 14 E-8 and E-9 who may be on active duty (other than for  
 15 training) or on full-time National Guard duty under the  
 16 authority of section 502(f) of title 32 (other than for train-  
 17 ing) as of the end of any fiscal year in connection with  
 18 organizing, administering, recruiting, instructing, or train-  
 19 ing the reserve components or the National Guard may  
 20 not exceed the number for that grade and armed force  
 21 in the following table:

| “Grade    | Army  | Navy | Air<br>Force | Marine<br>Corps |
|-----------|-------|------|--------------|-----------------|
| E-9 ..... | 569   | 202  | 279          | 14              |
| E-8 ..... | 2,585 | 429  | 800          | 74              |

1 “(b) Whenever the number of members serving in pay  
2 grade E–9 for duty described in subsection (a) is less than  
3 the number authorized for that grade under subsection  
4 (a), the difference between the two numbers may be ap-  
5 plied to increase the number authorized under such sub-  
6 section for pay grade E–8.”.

7 (2)(A) Section 524 is transferred to chapter 1201,  
8 as added by paragraph (1), inserted after section 12010,  
9 and redesignated as section 12011.

10 (B) The heading of that section is amended to read  
11 as follows:

12 **“§ 12011. Authorized strengths: reserve officers on ac-**  
13 **tive duty or on full-time National Guard**  
14 **duty for administration of the reserves or**  
15 **the National Guard”.**

16 (3) Chapter 531 and sections 3212, 3217 through  
17 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through  
18 8225 are repealed.

19 (4) Section 517 is amended—

20 (A) by striking out subsection (b); and

21 (B) by redesignating subsection (c) as sub-  
22 section (b) and in that subsection striking out “or  
23 whenever” and all that follows through “under sub-  
24 section (b),”.

1 (b) ENLISTMENTS.—(1) Part II of subtitle E, as  
 2 added by subsection (a), is amended by adding after chap-  
 3 ter 1201 (as added by subsection (a)), the following:

4 **“CHAPTER 1203—ENLISTED MEMBERS**

“Sec.

“12101. Definition.

“12102. Reserve components: qualifications.

“12103. Reserve components: terms.

“12104. Reserve components: transfers.

“12105. Army Reserve and Air Force Reserve: transfer from Guard compo-  
 nents.

“12106. Army and Air Force Reserve: transfer to upon withdrawal as member  
 of National Guard.

“12107. Army National Guard of United States; Air National Guard of the  
 United States: enlistment in.

5 **“§ 12101. Definition**

6 “In this chapter, the term ‘enlistment’ means original  
 7 enlistment or reenlistment.

8 **“§ 12105. Army Reserve and Air Force Reserve: trans-  
 9 fer from Guard components**

10 “(a) Under such regulations as the Secretary con-  
 11 cerned may prescribe—

12 “(1) an enlisted member of the Army National  
 13 Guard of the United States may be transferred in  
 14 grade to the Army Reserve; and

15 “(2) an enlisted member of the Air National  
 16 Guard of the United States may be transferred in  
 17 grade to the Air Force Reserve.

18 “(b) Upon such a transfer, the member transferred  
 19 is eligible for promotion to the highest regular or reserve  
 20 grade ever held by him in the Army, if transferred under

1 subsection (a)(1), or the Air Force, if transferred under  
2 subsection (a)(2), if his service has been honorable.

3 “(c) A transfer under this section may only be made  
4 with the consent of the governor or other appropriate au-  
5 thority of the State concerned.

6 **“§ 12106. Army and Air Force Reserve: transfer to**  
7 **upon withdrawal as member of National**  
8 **Guard**

9 “(a) An enlisted member of the Army National Guard  
10 of the United States who ceases to be a member of the  
11 Army National Guard becomes a member of the Army Re-  
12 serve unless he is also discharged from his enlistment as  
13 a Reserve.

14 “(b) An enlisted member of the Air National Guard  
15 of the United States who ceases to be a member of the  
16 Air National Guard becomes a member of the Air Force  
17 Reserve unless he is also discharged from his enlistment  
18 as a Reserve.

19 “(c) An enlisted member who becomes a member of  
20 the Army Reserve or the Air Force Reserve under this  
21 section ceases to be a member of the Army National  
22 Guard of the United States or the Air National Guard  
23 of the United States, as the case may be.

1 **“§ 12107. Army National Guard of United States; Air**  
2 **National Guard of the United States: en-**  
3 **listment in**

4 “(a) Except as provided in subsection (c), to become  
5 an enlisted member of the Army National Guard of the  
6 United States or the Air National Guard of the United  
7 States, a person must—

8 “(1) be enlisted in the Army National Guard or  
9 the Air National Guard, as the case may be;

10 “(2) subscribe to the oath set forth in section  
11 304 of title 32; and

12 “(3) be a member of a federally recognized unit  
13 or organization of the Army National Guard or the  
14 Air National Guard, as the case may be, in the  
15 grade in which he is to be enlisted as a Reserve.

16 “(b)(1) Under regulations to be prescribed by the  
17 Secretary of the Army, a person who enlists in the Army  
18 National Guard, or whose term of enlistment in the Army  
19 National Guard is extended, shall be concurrently enlisted,  
20 or his term of enlistment shall be concurrently ex-  
21 tended, as the case may be, as a Reserve of the Army  
22 for service in the Army National Guard of the United  
23 States.

24 “(2) Under regulations to be prescribed by the Sec-  
25 retary of the Air Force, a person who enlists in the Air  
26 National Guard, or whose term of enlistment in the Air

1 National Guard is extended, shall be concurrently enlisted,  
 2 or his term of enlistment shall be concurrently extended,  
 3 as the case may be, as a Reserve of the Air Force for  
 4 service in the Air National Guard of the United States.

5 “(c)(1) A member of the Army Reserve who enlists  
 6 in the Army National Guard in his reserve grade, and is  
 7 a member of a federally recognized unit or organization  
 8 of the Army National Guard, becomes a member of the  
 9 Army National Guard of the United States and ceases to  
 10 be a member of the Army Reserve.

11 “(2) A member of the Air Force Reserve who enlists  
 12 in the Air National Guard in his reserve grade, and is  
 13 a member of a federally recognized unit or organization  
 14 of the Air National Guard, becomes a member of the Air  
 15 National Guard of the United States and ceases to be a  
 16 member of the Air Force Reserve.”.

17 (2) Sections 510 (as amended by section 201(a)),  
 18 511, and 512 are transferred to chapter 1203, as added  
 19 by paragraph (1), inserted after section 12101, and redes-  
 20 igned as follows:

| <b>Section</b> | <b>Redesignated<br/>section</b> |
|----------------|---------------------------------|
| 510 .....      | 12102                           |
| 511 .....      | 12103                           |
| 512 .....      | 12104                           |

21 (3) The following sections are repealed: sections  
 22 3259, 3260, 3261, 8259, 8260, and 8261.

1 (c) APPOINTMENT OF OFFICERS.—(1) Part II of sub-  
 2 title E, as added by subsection (a), is further amended  
 3 by adding after chapter 1203 (as added by subsection (b))  
 4 the following:

5 **“CHAPTER 1205—APPOINTMENT OF RESERVE**  
 6 **OFFICERS**

“Sec.

“12201. Qualifications for appointment.

“12202. Commissioned officer grades.

“12203. Commissioned officers: appointment, how made; term.

“12204. Commissioned officers: original appointment; limitation.

“12205. Commissioned officers: appointment; educational requirement.

“12206. Commissioned officers: appointment of former commissioned officers.

“12207. Commissioned officers: service credit upon original appointment.

“12208. Officers: appointment upon transfer.

“12209. Officer candidates: enlisted Reserves.

“12210. Attending Physician to the Congress: reserve grade while so serving.

“12211. Officers: Army National Guard of United States.

“12212. Officers: Air National Guard of United States.

“12213. Officers; Army Reserve: transfer from Army National Guard of United  
 States.

“12214. Officers; Air Force Reserve: transfer from Air National Guard of Unit-  
 ed States.

“12215. Commissioned officers: reserve grade of adjutants general and assistant  
 adjutants general.

7 **“§ 12215. Commissioned officers: reserve grade of ad-**  
 8 **jutants general and assistant adjutants**  
 9 **general**

10 “(a) The adjutant general or an assistant adjutant  
 11 general of the Army National Guard of a State may, upon  
 12 being extended Federal recognition, be appointed as a re-  
 13 serve officer of the Army as of the date on which he is  
 14 so recognized.

15 “(b) The adjutant general or an assistant adjutant  
 16 general of the Air National Guard of a State may be ap-

1 pointed in the reserve commissioned grade in which Fed-  
 2 eral recognition in the Air National Guard is extended to  
 3 him.”.

4 (2) Sections 591 (as amended by section 201(b)),  
 5 592, 593 (as amended by section 202), 594, 596, 596a  
 6 (as added by section 203), 596b (as added by section 204),  
 7 and 595 are transferred (in that order) to chapter 1205,  
 8 as added by paragraph (1), inserted after the table of sec-  
 9 tions, and redesignated as follows:

| <b>Section</b>                       | <b>Redesignated<br/>section</b> |
|--------------------------------------|---------------------------------|
| 591 .....                            | 12201                           |
| 592 .....                            | 12202                           |
| 593 .....                            | 12203                           |
| 594 .....                            | 12204                           |
| 596 .....                            | 12205                           |
| 596a (as added by section 203) ..... | 12206                           |
| 596b (as added by section 204) ..... | 12207                           |
| 595 .....                            | 12208                           |

10 (3) Sections 600, 600a, 3351, 8351, 3352 (as amend-  
 11 ed by section 206(a)), and 8352 are transferred (in that  
 12 order) to chapter 1205, as added by paragraph (1), in-  
 13 serted after section 12208, and redesignated as follows:

| <b>Section</b> | <b>Redesignated<br/>section</b> |
|----------------|---------------------------------|
| 600 .....      | 12209                           |
| 600a .....     | 12210                           |
| 3351 .....     | 12211                           |
| 8351 .....     | 12212                           |
| 3352 .....     | 12213                           |
| 8352 .....     | 12214                           |

14 (d) WARRANT OFFICERS.—(1) Part II of subtitle E,  
 15 as added by subsection (a), is further amended by adding



1 after chapter 1205 (as added by subsection (c)) the follow-  
 2 ing:

3 **“CHAPTER 1207—WARRANT OFFICERS**

“Sec.

“12241. Warrant officers: grades; appointment, how made; term.

“12242. Warrant officers: promotion.

“12243. Warrant officers: suspension of laws for promotions or mandatory re-  
 tirement or separation during war or emergency.”.

4 (2) Sections 597, 598, and 599 are transferred to  
 5 chapter 1207, as added by paragraph (1), inserted after  
 6 the table of sections, and redesignated as follows:

| Section   | Redesignated<br>section |
|-----------|-------------------------|
| 597 ..... | 12241                   |
| 598 ..... | 12242                   |
| 599 ..... | 12243                   |

7 (3) Chapter 34 is amended to read as follows:

8 **“CHAPTER 34—APPOINTMENTS AS RESERVE**

9 **OFFICERS**

“Sec.

“591. Reference to chapters 1205 and 1207.

10 **“§ 591. Reference to chapters 1205 and 1207**

11 “Provisions of law relating to appointments of reserve  
 12 officers other than warrant officers are set forth in chap-  
 13 ter 1205 of this title (beginning with section 12201). Pro-  
 14 visions of law relating to appointments and promotion of  
 15 reserve warrant officers are set forth in chapter 1207 (be-  
 16 ginning with section 12241).”.

17 (e) ACTIVE DUTY.—(1) Part II of subtitle E, as  
 18 added by subsection (a), is further amended by adding

1 after chapter 1207 (as added by subsection (d)) the follow-  
 2 ing:

3 **“CHAPTER 1209—ACTIVE DUTY**

“Sec.

“12301. Reserve components generally.

“12302. Ready Reserve.

“12303. Ready Reserve: members not assigned to, or participating satisfactorily  
 in, units.

“12304. Selected Reserve: order to active duty other than during war or na-  
 tional emergency.

“12305. Authority of President to suspend certain laws relating to promotion,  
 retirement, and separation.

“12306. Standby Reserve.

“12307. Retired Reserve.

“12308. Retention on active duty after becoming qualified for retired pay.

“12309. Reserve officers: use of in expansion of armed forces.

“12310. Reserves: for organizing, administering, etc., reserve components.

“12311. Active duty agreements.

“12312. Active duty agreements: release from duty.

“12313. Reserves: release from active duty.

“12314. Reserves: kinds of duty.

“12315. Reserves: duty with or without pay.

“12316. Payment of certain Reserves while on duty.

“12317. Reserves: theological students; limitations.

“12318. Reserves on active duty: duties; funding.

“12319. Ready Reserve: muster duty.

“12320. Reserve officers: grade in which ordered to active duty.

“12321. Limitation on duty with Reserve Officer Training Corps units.”.

4 (2) Sections 672 through 687, section 689 (as  
 5 amended by section 114), and section 690 are transferred  
 6 to chapter 1209, as added by paragraph (1), inserted after  
 7 the table of sections, and redesignated as follows:

**Section**

**Redesignated  
 section**

|            |       |
|------------|-------|
| 672 .....  | 12301 |
| 673 .....  | 12302 |
| 673a ..... | 12303 |
| 673b ..... | 12304 |
| 673c ..... | 12305 |
| 674 .....  | 12306 |
| 675 .....  | 12307 |
| 676 .....  | 12308 |
| 677 .....  | 12309 |
| 678 .....  | 12310 |
| 679 .....  | 12311 |

|           |       |
|-----------|-------|
| 680 ..... | 12312 |
| 681 ..... | 12313 |
| 682 ..... | 12314 |
| 683 ..... | 12315 |
| 684 ..... | 12316 |
| 685 ..... | 12317 |
| 686 ..... | 12318 |
| 687 ..... | 12319 |
| 689 ..... | 12320 |
| 690 ..... | 12321 |

1       (3) Chapter 39 is amended by inserting after section  
2 671b the following:

3       **“§ 672. Reference to chapter 1209**

4       “Provisions of law relating to service of members of  
5 reserve components on active duty are set forth in chapter  
6 1209 of this title (beginning with section 12301).”.

7       (f) NATIONAL GUARD MEMBERS IN FEDERAL SERV-  
8 ICE.—(1) Part II of subtitle E, as added by subsection  
9 (a), is further amended by adding after chapter 1209 (as  
10 added by subsection (e)) the following:

11       **“CHAPTER 1211—NATIONAL GUARD MEMBERS IN**  
12                                   **FEDERAL SERVICE**

“Sec.

“12401. Army and Air National Guard of United States: status.

“12402. Army and Air National Guard of United States: commissioned officers;  
duty in National Guard Bureau.

“12403. Army and Air National Guard of United States: members; status in  
which ordered into Federal service.

“12404. Army and Air National Guard of United States: mobilization; mainte-  
nance of organization.

“12405. National Guard in Federal service: status.

“12406. National Guard in Federal service: call.

“12407. National Guard in Federal service: period of service; apportionment.

“12408. National Guard in Federal service: physical examination.

1 **“§ 12401. Army and Air National Guard of the United**

2 **States: status**

3 “Members of the Army National Guard of the United  
4 States and the Air National Guard of the United States  
5 are not in active Federal service except when ordered  
6 thereto under law.

7 **“§ 12402. Army and Air National Guard of United**

8 **States: commissioned officers; duty in Na-**

9 **tional Guard Bureau**

10 “(a) The President may, with their consent, order  
11 commissioned officers of the Army National Guard of the  
12 United States and the Air National Guard of the United  
13 States to active duty in the National Guard Bureau.

14 “(b)(1) The number of officers of the Army National  
15 Guard of the United States in grades below brigadier gen-  
16 eral who are ordered to active duty in the National Guard  
17 Bureau may not be more than 40 percent of the number  
18 of officers of the Army authorized for duty in that Bureau  
19 and, to the extent practicable, shall not exceed 40 percent  
20 of the number of officers of the Army serving in that Bu-  
21 reau in any grade below brigadier general.

22 “(2) The number of officers of the Air National  
23 Guard of the United States in grades below brigadier gen-  
24 eral who are ordered to active duty in the National Guard  
25 Bureau may not be more than 40 percent of the number  
26 of officers of the Air Force authorized for duty in that

1 Bureau and, to the extent practicable, shall not exceed 40  
2 percent of the number of officers of the Air Force serving  
3 in that Bureau in any grade below brigadier general.

4 **“§ 12403. Army and Air National Guard of United**  
5 **States: members; status in which ordered**  
6 **into Federal service**

7 “Members of the Army National Guard of the United  
8 States ordered to active duty shall be ordered to duty as  
9 Reserves of the Army. Members of the Air National Guard  
10 of the United States ordered to active duty shall be or-  
11 dered to duty as Reserves of the Air Force.

12 **“§ 12404. Army and Air National Guard of United**  
13 **States: mobilization; maintenance of or-**  
14 **ganization**

15 “During an initial mobilization, the organization of  
16 a unit of the Army National Guard of the United States  
17 or of the Air National Guard of the United States ordered  
18 into active Federal service shall, so far as practicable, be  
19 maintained as it existed on the date of the order to duty.

20 **“§ 12405. National Guard in Federal service: status**

21 “Members of the National Guard called into Federal  
22 service are, from the time when they are required to re-  
23 spond to the call, subject to the laws and regulations gov-  
24 erning the Army or the Air Force, as the case may be,

1 except those applicable only to members of the Regular  
2 Army or Regular Air Force, as the case may be.

3 **“§ 12406. National Guard in Federal service: call**

4 “Whenever—

5 “(1) the United States, or any of the Terri-  
6 tories, Commonwealths, or possessions, is invaded or  
7 is in danger of invasion by a foreign nation;

8 “(2) there is a rebellion or danger of a rebellion  
9 against the authority of the Government of the  
10 United States; or

11 “(3) the President is unable with the regular  
12 forces to execute the laws of the United States;

13 the President may call into Federal service members and  
14 units of the National Guard of any State in such numbers  
15 as he considers necessary to repel the invasion, suppress  
16 the rebellion, or execute those laws. Orders for these pur-  
17 poses shall be issued through the governors of the States  
18 or, in the case of the District of Columbia, through the  
19 commanding general of the National Guard of the District  
20 of Columbia.

21 **“§ 12407. National Guard in Federal service: period**  
22 **of service; apportionment**

23 “(a) Whenever the President calls the National  
24 Guard of a State into Federal service, he may specify in  
25 the call the period of the service. Members and units called

1 shall serve inside or outside the territory of the United  
2 States during the term specified, unless sooner relieved by  
3 the President. However, no member of the National Guard  
4 may be kept in Federal service beyond the term of his  
5 commission or enlistment.

6 “(b) When the National Guard of a State is called  
7 into Federal service with the National Guard of another  
8 of those jurisdictions, the President may apportion the  
9 total number called from the Army National Guard or  
10 from the Air National Guard, as the case may be, on the  
11 basis of the populations of the jurisdictions affected by  
12 the call.

13 **“§ 12408. National Guard in Federal service: physical**  
14 **examination**

15 “(a) Under regulations prescribed by the President,  
16 each member of the National Guard called into Federal  
17 service shall be examined as to physical fitness, without  
18 further commission or enlistment.

19 “(b) Immediately before such a member is mustered  
20 out of Federal service, he shall be examined as to physical  
21 fitness. The record of this examination shall be retained  
22 by the United States.”.

23 (2) Sections 3495 through 3502 and 8495 through  
24 8502 are repealed.

1 (g) MISCELLANEOUS PROVISIONS.—(1) Part II of  
 2 subtitle E, as added by subsection (a), is further amended  
 3 by adding after chapter 1211 (as added by subsection (f))  
 4 the following:

5 **“CHAPTER 1213—SPECIAL APPOINTMENTS,**  
 6 **ASSIGNMENTS, DETAILS, AND DUTIES**

“Sec.

“12501. Reserve components: detail of members of regular and reserve components to assist.

“12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

7 **“§ 12501. Reserve components: detail of members of**  
 8 **regular and reserve components to assist**

9 “The Secretary concerned shall detail such members  
 10 of the regular and reserve components under his jurisdic-  
 11 tion as are necessary to effectively develop, train, instruct,  
 12 and administer those reserve components.

13 **“§ 12502. Chief and assistant chief of staff of National**  
 14 **Guard divisions and wings in Federal**  
 15 **service: detail**

16 “(a) The President may detail a regular or reserve  
 17 officer of the Army as chief of staff, and a regular or re-  
 18 serve officer or an officer of the Army National Guard  
 19 as assistant to the chief of staff, of any division of the  
 20 Army National Guard that is in Federal service as an  
 21 Army National Guard organization.

22 “(b) The President may detail a regular or reserve  
 23 officer of the Air Force as chief of staff, and a regular



1 or reserve officer or an officer of the Air National Guard  
 2 as assistant to the chief of staff, of any wing of the Air  
 3 National Guard that is in Federal service as an Air Na-  
 4 tional Guard organization.

5 **“CHAPTER 1215—MISCELLANEOUS**  
 6 **PROHIBITIONS AND PENALTIES**

7 “[No present sections]

8 **“CHAPTER 1217—MISCELLANEOUS RIGHTS AND**  
 9 **BENEFITS**

“Sec.

“12601. Compensation: Reserve on active duty accepting from any person.

“12602. Members of Army National Guard of United States and Air National  
 Guard of United States: credit for service as members of Na-  
 tional Guard.

10 **“§ 12601. Compensation: Reserve on active duty ac-**  
 11 **cepting from any person**

12 “Any Reserve who, before being ordered to active  
 13 duty, was receiving compensation from any person may,  
 14 while he is on that duty, receive compensation from that  
 15 person.

16 **“§ 12602. Members of Army National Guard of United**  
 17 **States and Air National Guard of United**  
 18 **States: credit for service as members of**  
 19 **National Guard**

20 “(a) For the purposes of laws providing benefits for  
 21 members of the Army National Guard of the United  
 22 States and their dependents and beneficiaries—

1           “(1) military training, duty, or other service  
2           performed by a member of the Army National Guard  
3           of the United States in his status as a member of  
4           the Army National Guard for which he is entitled to  
5           pay from the United States shall be considered mili-  
6           tary training, duty, or other service, as the case may  
7           be, in Federal service as a Reserve of the Army;

8           “(2) full-time National Guard duty performed  
9           by a member of the Army National Guard of the  
10          United States shall be considered active duty in  
11          Federal service as a Reserve of the Army; and

12          “(3) inactive-duty training performed by a  
13          member of the Army National Guard of the United  
14          States in his status as a member of the Army Na-  
15          tional Guard, in accordance with regulations pre-  
16          scribed under section 502 of title 32 or other express  
17          provision of law, shall be considered inactive-duty  
18          training in Federal service as a Reserve of the  
19          Army.

20          “(b) For the purposes of laws providing benefits for  
21          members of the Air National Guard of the United States  
22          and their dependents and beneficiaries—

23               “(1) military training, duty, or other service  
24               performed by a member of the Air National Guard  
25               of the United States in his status as a member of

1 the Air National Guard for which he is entitled to  
 2 pay from the United States shall be considered mili-  
 3 tary training, duty, or other service, as the case may  
 4 be, in Federal service as a Reserve of the Air Force;

5 “(2) full-time National Guard duty performed  
 6 by a member of the Air National Guard of the Unit-  
 7 ed States shall be considered active duty in Federal  
 8 service as a Reserve of the Air Force; and

9 “(3) inactive-duty training performed by a  
 10 member of the Air National Guard of the United  
 11 States in his status as a member of the Air National  
 12 Guard, in accordance with regulations prescribed  
 13 under section 502 of title 32 or other express provi-  
 14 sion of law, shall be considered inactive-duty train-  
 15 ing in Federal service as a Reserve of the Air  
 16 Force.”.

17 (2) Sections 715, 1033, 3542, 3686, 8542, and 8686  
 18 are repealed.

19 (h) STANDARDS AND PROCEDURES FOR RETENTION  
 20 AND PROMOTION.—(1) Part II of subtitle E, as added by  
 21 subsection (a), is further amended by adding after chapter  
 22 1217 (as added by subsection (g)) the following:

23 **“CHAPTER 1219—STANDARDS AND PROCEDURES**  
 24 **FOR RETENTION AND PROMOTION**

“Sec.

“12641. Standards and procedures: Secretary to prescribe.

“12642. Standards and qualifications: result of failure to comply with.

“12643. Boards for appointment, promotion, and certain other purposes: composition.

“12644. Members physically not qualified for active duty: discharge or transfer to retired status.

“12645. Commissioned officers: retention until completion of required service.

“12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.

“12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.”.

1       (2) Sections 1001, 1002, 266, 1004 (as amended by  
2 section 301(b)(4)), and 1005 through 1007 are trans-  
3 ferred (in that order) to chapter 1219, as added by para-  
4 graph (1), inserted after the table of sections, and redesign-  
5 nated as follows:

**Section**

**Redesignated  
section**

|            |       |
|------------|-------|
| 1001 ..... | 12641 |
| 1002 ..... | 12642 |
| 266 .....  | 12643 |
| 1004 ..... | 12644 |
| 1005 ..... | 12645 |
| 1006 ..... | 12646 |
| 1007 ..... | 12647 |

6       (3) Section 1003 is repealed.

7       (4)(A) The heading of section 12641 (as so redesign-  
8 nated) is amended to read as follows:

9       **“§ 12641. Standards and procedures: Secretary to pre-**  
10               **scribe”.**

11       (B) The heading of section 12644 (as so redesign-  
12 nated) is amended to read as follows:

1 **“§ 12644. Members physically not qualified for active**  
 2 **duty: discharge or transfer to retired sta-**  
 3 **tus”.**

4 (5) Chapter 51 is amended by striking out the table  
 5 of sections at the beginning and inserting in lieu thereof  
 6 the following:

“Sec.

“1001. Reference to chapter 1219.

7 **“§ 1001. Reference to chapter 1219**

8 “Provisions of law relating to standards and proce-  
 9 dures for retention and promotion of members of reserve  
 10 components are set forth in chapter 1219 of this title (be-  
 11 ginning with section 12641).”.

12 (i) SEPARATION.—(1) Part II of subtitle E, as added  
 13 by subsection (a), is further amended by adding after  
 14 chapter 1219 (as added by subsection (h)) the following:

15 **“CHAPTER 1221—SEPARATION**

“Sec.

“12681. Reserves: discharge authority.

“12682. Reserves: discharge upon becoming ordained minister of religion.

“12683. Reserve officers: limitation on involuntary separation.

“12684. Reserves: separation for absence without authority or sentence to im-  
 prisonment.

“12685. Reserves separated for cause: character of discharge.

“12686. Reserves on active duty within two years of retirement eligibility: limi-  
 tation on release from active duty.

16 **“§ 12681. Reserves: discharge authority**

17 “Subject to other provisions of this title, reserve com-  
 18 missioned officers may be discharged at the pleasure of  
 19 the President. Other Reserves may be discharged under  
 20 regulations prescribed by the Secretary concerned.

1 **“§ 12682. Reserves: discharge upon becoming or-**  
2 **dained minister of religion**

3       “Under regulations to be prescribed by the Secretary  
4 of Defense, a Reserve who becomes a regular or ordained  
5 minister of religion is entitled upon his request to a dis-  
6 charge from his reserve enlistment or appointment.

7 **“§ 12683. Reserve officers: limitation on involuntary**  
8 **separation**

9       “(a) An officer of a reserve component who has at  
10 least five years of service as a commissioned officer may  
11 not be separated from that component without his consent  
12 except—

13               “(1) under an approved recommendation of a  
14 board of officers convened by an authority des-  
15 ignated by the Secretary concerned; or

16               “(2) by the approved sentence of a court-  
17 martial.

18       “(b) Subsection (a) does not apply—

19               “(1) to a separation under section 12684,  
20 14901, or 14907 of this title;

21               “(2) to a dismissal under section 1161(a) of  
22 this title; or

23               “(3) to a transfer under section 12213, 12214,  
24 14514, or 14515 of this title.

1 **“§ 12684. Reserves: separation for absence without**  
2 **authority or sentence to imprisonment**

3 “The President or the Secretary concerned may drop  
4 from the rolls of the armed force concerned any Reserve—

5 “(1) who has been absent without authority for  
6 at least three months; or

7 “(2) who is sentenced to confinement in a Fed-  
8 eral or State penitentiary or correctional institution  
9 after having been found guilty of an offense by a  
10 court other than a court-martial or other military  
11 court, and whose sentence has become final.

12 **“§ 12685. Reserves separated for cause: character of**  
13 **discharge**

14 “A member of a reserve component who is separated  
15 for cause, except under section 12684 of this title, is enti-  
16 tled to a discharge under honorable conditions unless—

17 “(1) the member is discharged under conditions  
18 other than honorable under an approved sentence of  
19 a court-martial or under the approved findings of a  
20 board of officers convened by an authority des-  
21 ignated by the Secretary concerned; or

22 “(2) the member consents to a discharge under  
23 conditions other than honorable with a waiver of  
24 proceedings of a court-martial or a board.

1 **“§ 12686. Reserves on active duty within two years of**  
 2 **retirement eligibility: limitation on re-**  
 3 **lease from active duty**

4 “Under regulations to be prescribed by the Secretary  
 5 concerned, which shall be as uniform as practicable, a  
 6 member of a reserve component who is on active duty  
 7 (other than for training) and is within two years of becom-  
 8 ing eligible for retired pay or retainer pay under a purely  
 9 military retirement system, may not be involuntarily re-  
 10 leased from that duty before he becomes eligible for that  
 11 pay, unless the release is approved by the Secretary.”.

12 (2) Sections 1162 and 1163 are repealed.

13 (j) RETIRED PAY.—(1) Chapter 67 is transferred to  
 14 part II of subtitle E, as added by subsection (a), inserted  
 15 after chapter 1221 (as added by subsection (i)), and  
 16 amended to read as follows:

17 **“CHAPTER 1223—RETIRED PAY FOR NON-**  
 18 **REGULAR SERVICE**

“Sec.

“12731. Age and service requirements.

“12731a. Temporary special retirement qualification authority.

“12732. Entitlement to retired pay: computation of years of service.

“12733. Computation of retired pay: computation of years of service.

“12734. Time not creditable toward years of service.

“12735. Inactive status list.

“12736. Service credited for retired pay benefits not excluded for other benefits.

“12737. Limitation on active duty.

“12738. Limitations on revocation of retired pay.

“12739. Computation of retired pay.



1 **“§ 12731. Age and service requirements**

2 “(a) Except as provided in subsection (c), a person  
3 is entitled, upon application, to retired pay computed  
4 under section 12739 of this title, if the person—

5 “(1) is at least 60 years of age;

6 “(2) has performed at least 20 years of service  
7 computed under section 12732 of this title;

8 “(3) performed the last eight years of qualify-  
9 ing service while a member of any category named  
10 in section 12732(a)(1) of this title, but not while a  
11 member of a regular component, the Fleet Reserve,  
12 or the Fleet Marine Corps Reserve; and

13 “(4) is not entitled, under any other provision  
14 of law, to retired pay from an armed force or re-  
15 tainer pay as a member of the Fleet Reserve or the  
16 Fleet Marine Corps Reserve.

17 “(b) Application for retired pay under this section  
18 must be made to the Secretary of the military department,  
19 or the Secretary of Transportation, as the case may be,  
20 having jurisdiction at the time of application over the  
21 armed force in which the applicant is serving or last  
22 served.

23 “(c)(1) A person who, before August 16, 1945, was  
24 a Reserve of an armed force, or a member of the Army  
25 without component or other category covered by section

1 12732(a)(1) of this title except a regular component, is  
2 not eligible for retired pay under this chapter unless—

3 “(A) the person performed active duty during  
4 World War I or World War II; or

5 “(B) the person performed active duty (other  
6 than for training) during the Korean conflict, the  
7 Berlin crisis, or the Vietnam era.

8 “(2) In this subsection:

9 “(A) The term ‘World War I’ means the period  
10 beginning on April 6, 1917, and ending on Novem-  
11 ber 11, 1918.

12 “(B) The term ‘World War II’ means the pe-  
13 riod beginning on September 9, 1940, and ending on  
14 December 31, 1946.

15 “(C) The term ‘Korean conflict’ means the pe-  
16 riod beginning on June 27, 1950, and ending on  
17 July 27, 1953.

18 “(D) The term ‘Berlin crisis’ means the period  
19 beginning on August 14, 1961, and ending on May  
20 30, 1963.

21 “(E) The term ‘Vietnam era’ means the period  
22 beginning on August 5, 1964, and ending on  
23 March 27, 1973.

24 “(d) The Secretary concerned shall notify each per-  
25 son who has completed the years of service required for

1 eligibility for retired pay under this chapter. The notice  
2 shall be sent, in writing, to the person concerned within  
3 one year after the person completes that service. The no-  
4 tice shall include notice of the elections available to such  
5 person under the Survivor Benefit Plan established under  
6 subchapter II of chapter 73 of this title and the Supple-  
7 mental Survivor Benefit Plan established under sub-  
8 chapter III of that chapter, and the effects of such  
9 elections.

10 “(e) Notwithstanding section 8301 of title 5, the date  
11 of entitlement to retired pay under this section shall be  
12 the date on which the requirements of subsection (a)  
13 have been completed.

14 **“§ 12731a. Temporary special retirement qualifica-**  
15 **tion authority**

16 “(a) RETIREMENT WITH AT LEAST 15 YEARS OF  
17 SERVICE.—For the purposes of section 12731 of this title,  
18 the Secretary of a military department may—

19 “(1) during the period described in subsection  
20 (b), determine to treat a member of the Selected Re-  
21 serve of a reserve component of the armed force  
22 under the jurisdiction of that Secretary as having  
23 met the service requirements of subsection (a)(2) of  
24 that section and provide the member with the notifi-

1 cation required by subsection (d) of that section if  
2 the member—

3 “(A) as of October 1, 1991, has completed  
4 at least 15, and less than 20, years of service  
5 computed under section 12732 of this title; or

6 “(B) after that date and before October 1,  
7 1995, completes 15 years of service computed  
8 under that section; and

9 “(2) upon the request of the member submitted  
10 to the Secretary within one year after the date of  
11 the notification referred to in paragraph (1), trans-  
12 fer the member to the Retired Reserve.

13 “(b) PERIOD OF AUTHORITY.—The period referred  
14 to in subsection (a)(1) is the period beginning on Octo-  
15 ber 23, 1992, and ending on October 1, 1995.

16 “(c) APPLICABILITY SUBJECT TO NEEDS OF THE  
17 SERVICE.—(1) The Secretary of the military department  
18 concerned may limit the applicability of subsection (a) to  
19 any category of personnel defined by the Secretary in  
20 order to meet a need of the armed force under the jurisdic-  
21 tion of the Secretary to reduce the number of members  
22 in certain grades, the number of members who have com-  
23 pleted a certain number of years of service, or the number  
24 of members who possess certain military skills or are serv-  
25 ing in designated competitive categories.

1       “(2) A limitation under paragraph (1) shall be con-  
2       sistent with the purpose set forth in section 4414(a) of  
3       the National Defense Authorization Act for Fiscal Year  
4       1993 (Public Law 102–484; 106 Stat. 2713).

5       “(d) EXCLUSION.—This section does not apply to  
6       persons referred to in section 12731(c) of this title.

7       “(e) REGULATIONS.—The authority provided in this  
8       section shall be subject to regulations prescribed by the  
9       Secretary of Defense.

10    **“§ 12732. Entitlement to retired pay: computation of**  
11                           **years of service**

12       “(a) Except as provided in subsection (b), for the  
13       purpose of determining whether a person is entitled to re-  
14       tired pay under section 12731 of this title, the person’s  
15       years of service are computed by adding the following:

16               “(1) The person’s years of service, before July  
17       1, 1949, in the following:

18                       “(A) The armed forces.

19                       “(B) The federally recognized National  
20       Guard before June 15, 1933.

21                       “(C) A federally recognized status in the  
22       National Guard before June 15, 1933.

23                       “(D) The National Guard after June 14,  
24       1933, if his service therein was continuous from  
25       the date of his enlistment in the National

1 Guard, or his Federal recognition as an officer  
2 therein, to the date of his enlistment or ap-  
3 pointment, as the case may be, in the National  
4 Guard of the United States, the Army National  
5 Guard of the United States, or the Air National  
6 Guard of the United States.

7 “(E) The Naval Reserve Force.

8 “(F) The Naval Militia that conformed to  
9 the standards prescribed by the Secretary of the  
10 Navy.

11 “(G) The National Naval Volunteers.

12 “(H) The Army Nurse Corps, the Navy  
13 Nurse Corps, the Nurse Corps Reserve of the  
14 Army, or the Nurse Corps Reserve of the Navy,  
15 as it existed at any time after February 2,  
16 1901.

17 “(I) The Army under an appointment  
18 under the Act of December 22, 1942 (ch.  
19 805, 56 Stat. 1072).

20 “(J) An active full-time status, except as a  
21 student or apprentice, with the Medical Depart-  
22 ment of the Army as a civilian employee—

23 “(i) in the dietetic or physical therapy  
24 categories, if the service was performed

1 after April 6, 1917, and before April 1,  
2 1943; or

3 “(ii) in the occupational therapy cat-  
4 egory, if the service was performed before  
5 appointment in the Army Nurse Corps or  
6 the Women’s Medical Specialist Corps and  
7 before January 1, 1949, or before appoint-  
8 ment in the Air Force before January 1,  
9 1949, with a view to designation as an Air  
10 Force nurse or medical specialist.

11 “(2) Each one-year period, after July 1, 1949,  
12 in which the person has been credited with at least  
13 50 points on the following basis:

14 “(A) One point for each day of—

15 “(i) active service; or

16 “(ii) full-time service under sections  
17 316, 502, 503, 504, and 505 of title 32  
18 while performing annual training duty or  
19 while attending a prescribed course of in-  
20 struction at a school designated as a serv-  
21 ice school by law or by the Secretary con-  
22 cerned;

23 if that service conformed to required standards  
24 and qualifications.

1           “(B) One point for each attendance at a  
2           drill or period of equivalent instruction that was  
3           prescribed for that year by the Secretary con-  
4           cerned and conformed to the requirements pre-  
5           scribed by law, including attendance under sec-  
6           tion 502 of title 32.

7           “(C) Points at the rate of 15 a year for  
8           membership—

9                   “(i) in a reserve component of an  
10                  armed force,

11                  “(ii) in the Army or the Air Force  
12                  without component, or

13                  “(iii) in any other category covered by  
14                  subsection (a)(1) except a regular compo-  
15                  nent.

16       For the purpose of clauses (A), (B), and (C), service  
17       in the National Guard shall be treated as if it were  
18       service in a reserve component, if the person con-  
19       cerned was later appointed in the National Guard of  
20       the United States, the Army National Guard of the  
21       United States, the Air National Guard of the United  
22       States, or as a Reserve of the Army or the Air  
23       Force, and served continuously in the National  
24       Guard from the date of his Federal recognition to  
25       the date of that appointment.



1           “(3) The person’s years of active service in the  
2           Commissioned Corps of the Public Health Service.

3           “(4) The person’s years of active commissioned  
4           service in the National Oceanic and Atmospheric Ad-  
5           ministration (including active commissioned service  
6           in the Environmental Science Services Administra-  
7           tion and in the Coast and Geodetic Survey).

8           “(b) The following service may not be counted under  
9           subsection (a):

10           “(1) Service (other than active service) in an in-  
11           active section of the Organized Reserve Corps or of  
12           the Army Reserve, or in an inactive section of the  
13           officers’ section of the Air Force Reserve.

14           “(2) Service (other than active service) after  
15           June 30, 1949, while on the Honorary Retired List  
16           of the Naval Reserve or of the Marine Corps  
17           Reserve.

18           “(3) Service in the inactive National Guard.

19           “(4) Service in a non-federally recognized sta-  
20           tus in the National Guard.

21           “(5) Service in the Fleet Reserve or the Fleet  
22           Marine Corps Reserve.

23           “(6) Service as an inactive Reserve nurse of the  
24           Army Nurse Corps established by the Act of Feb-  
25           ruary 2, 1901 (ch. 192, 31 Stat. 753), as amended,

1 and service before July 1, 1938, as an inactive Re-  
2 serve nurse of the Navy Nurse Corps established by  
3 the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

4 “(7) Service in any status other than that as  
5 commissioned officer, warrant officer, nurse, flight  
6 officer, aviation midshipman, appointed aviation  
7 cadet, or enlisted member, and that described in  
8 clauses (I) and (J) of subsection (a)(1).

9 **“§ 12733. Computation of retired pay: computation of**  
10 **years of service**

11 “For the purpose of computing the retired pay of a  
12 person under this chapter, the person’s years of service  
13 and any fraction of such a year are computed by dividing  
14 360 into the sum of the following:

15 “(1) The person’s days of active service.

16 “(2) The person’s days of full-time service  
17 under sections 316, 502, 503, 504, and 505 of title  
18 32 while performing annual training duty or while  
19 attending a prescribed course of instruction at a  
20 school designated as a service school by law or by  
21 the Secretary concerned.

22 “(3) One day for each point credited to the per-  
23 son under clause (B) or (C) of section 12732(a)(2)  
24 of this title, but not more than 60 days in any one  
25 year.

1           “(4) 50 days for each year before July 1, 1949,  
2           and proportionately for each fraction of a year, of  
3           service (other than active service) in a reserve com-  
4           ponent of an armed force, in the Army or the Air  
5           Force without component, or in any other category  
6           covered by section 12732(a)(1) of this title, except  
7           a regular component.

8   **“§ 12734. Time not creditable toward years of**  
9                           **service**

10          “(a) Service in an inactive status may not be counted  
11       in any computation of years of service under this chapter.

12          “(b) Time spent after retirement (without pay) for  
13       failure to conform to standards and qualifications pre-  
14       scribed under section 12641 of this title may not be cred-  
15       ited in a computation of years of service under this  
16       chapter.

17   **“§ 12735. Inactive status list**

18          “(a) A member who would be eligible for retired pay  
19       under this chapter but for the fact that that member is  
20       under 60 years of age may be transferred, at his request  
21       and by direction of the Secretary concerned, to such inac-  
22       tive status list as may be established for members of his  
23       armed force, other than members of a regular component.

1       “(b) While on an inactive status list under subsection  
2 (a), a member is not required to participate in any train-  
3 ing or other program prescribed for his component.

4       “(c) The Secretary may at any time recall to active  
5 status a member who is on an inactive status list under  
6 subsection (a).

7       **“§ 12736. Service credited for retired pay benefits**  
8                       **not excluded for other benefits**

9       “‘No period of service included wholly or partly in de-  
10 termining a person’s right to, or the amount of, retired  
11 pay under this chapter may be excluded in determining  
12 his eligibility for any annuity, pension, or old-age benefit,  
13 under any other law, on account of civilian employment  
14 by the United States or otherwise, or in determining the  
15 amount payable under that law, if that service is otherwise  
16 properly credited under it.

17       **“§ 12737. Limitation on active duty**

18       “‘A member of the armed forces may not be ordered  
19 to active duty solely for the purpose of qualifying the  
20 member for retired pay under this chapter.

21       **“§ 12738. Limitations on revocation of retired pay**

22       “(a) After a person is granted retired pay under this  
23 chapter, or is notified in accordance with section 12731(d)  
24 of this title that the person has completed the years of  
25 service required for eligibility for retired pay under this

1 chapter, the person's eligibility for retired pay may not  
2 be denied or revoked on the basis of any error, miscalcula-  
3 tion, misinformation, or administrative determination of  
4 years of service performed as required by section  
5 12731(a)(2) of this title, unless it resulted directly from  
6 the fraud or misrepresentation of the person.

7       “(b) The number of years of creditable service upon  
8 which retired pay is computed may be adjusted to correct  
9 any error, miscalculation, misinformation, or administra-  
10 tive determination and when such a correction is made the  
11 person is entitled to retired pay in accordance with the  
12 number of years of creditable service, as corrected, from  
13 the date the person is granted retired pay.

14 **“§ 12739. Computation of retired pay**

15       “(a) The monthly retired pay of a person entitled to  
16 that pay under this chapter is the product of—

17               “(1) the retired pay base for that person as  
18       computed under section 1406(b)(2) or 1407 of this  
19       title; and

20               “(2) 2½ percent of the years of service credited  
21       to that person under section 12733 of this title.

22       “(b) The amount computed under subsection (a) may  
23 not exceed 75 percent of the retired pay base upon which  
24 the computation is based.

1 “(c) Amounts computed under this section, if not a  
2 multiple of \$1, shall be rounded down to the next lower  
3 multiple of \$1.”.

4 (2) Section 1401(a) is amended by striking out for-  
5 mula number 3 in the table set forth in that section.

6 (3) Section 1405(a)(3) is amended by striking out  
7 “section 1333” and “section 1331” and inserting in lieu  
8 thereof “section 12733” and “section 12731”, respec-  
9 tively.

10 (4) Section 1406(b) is amended—

11 (A) by striking out the matter preceding the  
12 table and inserting in lieu thereof the following:

13 “(b) RETIREMENT UNDER SUBTITLE A OR E.—

14 “(1) DISABILITY, WARRANT OFFICER, AND  
15 DOPMA RETIREMENT.—In the case of a person  
16 whose retired pay is computed under this subtitle,  
17 the retired pay base is determined in accordance  
18 with the following table.”;

19 (B) in the table—

20 (i) by striking out the entry relating to sec-  
21 tion 1331 (including the matter relating to that  
22 entry in the column under the heading “The re-  
23 tired pay base is:”); and

1           (ii) by redesignating the references to foot-  
2           notes 3 and 4 so as to refer to footnotes 2 and  
3           3, respectively;

4           (C) by striking out footnote 2 to the table and  
5           redesignating footnotes 3 and 4 as footnotes 2 and  
6           3, respectively; and

7           (D) by adding at the end the following:

8           “(2) NON-REGULAR SERVICE RETIREMENT.—In  
9           the case of a person who is entitled to retired pay  
10          under section 12731 of this title, the retired pay  
11          base is the monthly basic pay, determined at the  
12          rates applicable on the date when retired pay is  
13          granted, of the highest grade held satisfactorily by  
14          the person at any time in the armed forces. For pur-  
15          poses of the preceding sentence, the highest grade in  
16          which a person served satisfactorily as an officer  
17          shall be determined in accordance with section  
18          1370(d) of this title.”.

19          (5) Section 1407 is amended—

20               (A) in subsection (c)(2)(B), by striking out  
21               “chapter 67” and inserting in lieu thereof “chapter  
22               1223”; and

23               (B) in subsection (f)(2)—

1 (i) by striking out “CHAPTER 67” in the  
 2 heading and inserting in lieu thereof “CHAPTER  
 3 1223”; and

4 (ii) by striking out “section 1331” and in-  
 5 serting in lieu thereof “section 12731”.

6 (6) Section 1409(a)(1)(B) is amended by striking out  
 7 “chapter 67” and inserting in lieu thereof “chapter  
 8 1223”.

9 (7) Part II of subtitle A is amended by inserting after  
 10 chapter 65 the following:

11 **“CHAPTER 67—RETIRED PAY FOR NONREGULAR**  
 12 **SERVICE**

“Sec.

“1331. Reference to chapter 1223.

13 **“§ 1331. Reference to chapter 1223**

14 “Provisions of law relating to retired pay for  
 15 nonregular service are set forth in chapter 1223 of this  
 16 title (beginning with section 12731).”.

17 (8) Section 6034 is repealed.

18 (k) RETIRED GRADE.—(1) Part II of subtitle E, as  
 19 added by subsection (a), is further amended by adding  
 20 after chapter 1223 (as added by subsection (j)) the follow-  
 21 ing:

22 **“CHAPTER 1225—RETIRED GRADE**

“Sec.

“12771. Reserve officers: grade on transfer to Retired Reserve.

“12772. Reserve commissioned officers who have served as Attending Physician  
 to the Congress: grade on transfer to Retired Reserve.



“12773. Limitation on accrual of increased pay or benefits.

“12774. Retired lists.

1 **“§ 12771. Reserve officers: grade on transfer to Re-**  
2 **tired Reserve**

3 “Unless entitled to a higher grade under another pro-  
4 vision of law, a reserve commissioned officer, other than  
5 a commissioned warrant officer, who is transferred to the  
6 Retired Reserve is entitled to be placed on the retired list  
7 established by section 12774(a) of this title in the highest  
8 grade in which he served satisfactorily, as determined by  
9 the Secretary concerned and in accordance with section  
10 1370(d), in the armed force in which he is serving on the  
11 date of transfer.

12 **“§ 12772. Reserve commissioned officers who have**  
13 **served as Attending Physician to the**  
14 **Congress: grade on transfer to Retired**  
15 **Reserve**

16 “Unless entitled to a higher grade under another pro-  
17 vision of law, a reserve commissioned officer who is trans-  
18 ferred to the Retired Reserve after having served in the  
19 position of Attending Physician to the Congress is entitled  
20 to be placed on the retired list established by section  
21 12774(a) of this title in the grade held by the officer while  
22 serving in that position.

1 **“§ 12773. Limitation on accrual of increased pay or**  
2 **benefits**

3 “Unless otherwise provided by law, no person is enti-  
4 tled to increased pay or other benefits because of sections  
5 12771 and 12772 of this title.

6 **“§ 12774. Retired lists**

7 “(a) Under regulations prescribed by the Secretary  
8 concerned, there shall be maintained retired lists contain-  
9 ing the names of the Reserves of the armed forces under  
10 the Secretary’s jurisdiction who are in the Retired  
11 Reserve.

12 “(b) The Secretary of the Navy shall maintain a  
13 United States Naval Reserve Retired List containing the  
14 names of members of the Naval Reserve and the Marine  
15 Corps Reserve entitled to retired pay.”.

16 (2) Sections 1374 and 6017 are repealed.

17 (3)(A) Section 1376 is amended—

18 (i) by striking out subsection (a); and

19 (ii) by striking out “(b)” before “The Secretary  
20 concerned”.

21 (B) The heading of that section is amended to read  
22 as follows:

1 **“§ 1376. Temporary disability retired lists”.**

2 **SEC. 303. LAWS RELATING TO RESERVE COMPONENT**  
 3 **TRAINING AND EDUCATIONAL ASSISTANCE**  
 4 **PROGRAMS.**

5 (a) TRAINING GENERALLY.—Subtitle E, as added by  
 6 section 101, is amended by adding after part III of such  
 7 subtitle (as added by that section) the following:

8 **“PART IV—TRAINING FOR RESERVE COM-**  
 9 **PONENTS AND EDUCATIONAL ASSIST-**  
 10 **ANCE PROGRAMS**

|                                                                        |                       |
|------------------------------------------------------------------------|-----------------------|
| “Chap.                                                                 | Sec.                  |
| “1601. Training Generally .....                                        | [No present sections] |
| “1606. Educational Assistance for Members of the Selected Reserve .... | 16131                 |
| “1608. Health Professions Stipend Program .....                        | 16201                 |
| “1609. Education Loan Repayments .....                                 | 16301                 |

11 **“CHAPTER 1601—TRAINING GENERALLY**

12 **“[No present sections]”.**

13 (b) MONTGOMERY GI BILL FOR SELECTED RE-  
 14 SERVE.—(1) Part IV of subtitle E (as added by subsection  
 15 (a)) is amended by adding at the end the following:

16 **“CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR**  
 17 **MEMBERS OF THE SELECTED RESERVE**

|                                                                |
|----------------------------------------------------------------|
| “Sec.                                                          |
| “16131. Educational assistance program: establishment; amount. |
| “16132. Eligibility for educational assistance.                |
| “16133. Time limitations for use of entitlement.               |
| “16134. Termination of assistance.                             |
| “16135. Failure to participate satisfactorily; penalties.      |
| “16136. Administration of program.                             |
| “16137. Reports to Congress.”.                                 |

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

| <b>Section</b> | <b>Redesignated<br/>section</b> |
|----------------|---------------------------------|
| 2131 .....     | 16131                           |
| 2132 .....     | 16132                           |
| 2133 .....     | 16133                           |
| 2134 .....     | 16134                           |
| 2135 .....     | 16135                           |
| 2136 .....     | 16136                           |
| 2137 .....     | 16137                           |

(3) Section 16131 (as so redesignated) is amended—

(A) in subsection (c)(3)(B)(i), by striking out “section 672 (a), (d), or (g), 673, or 673b” and inserting in lieu thereof “section 12301(a), 12301(d), 12301(g), 12302, or 12304”; and

(B) in subsection (g)(1), by striking out “section 2136(c)” and inserting in lieu thereof “section 16136(c)”.

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out “section 2131” and inserting in lieu thereof “section 16131”; and

(B) in subsection (c), by striking out “sections 2134 and 2135” and inserting in lieu thereof “section 16134 and 16135”.

(5) Section 16133 (as so redesignated) is amended—

1 (A) in subsection (b)(1)(B), by striking out  
 2 “section 268(b)” and inserting in lieu thereof “sec-  
 3 tion 10143(a)”; and

4 (B) in subsection (b)(4)(A), by striking out  
 5 “section 672 (a), (d), or (g), 673, or 673b” and in-  
 6 serting in lieu thereof “section 12301(a), 12301(d),  
 7 12301(g), 12302, or 12304”.

8 (6) Section 16135 (as so redesignated) is amended—

9 (A) by striking out “section 2132” in sub-  
 10 section (a)(1)(A) and inserting in lieu thereof “sec-  
 11 tion 16132”; and

12 (B) by striking out “section 2132(a)” in sub-  
 13 section (b)(1)(A) and inserting in lieu thereof “sec-  
 14 tion 16132(a)”.

15 (7) Chapter 106 is amended by striking out the table  
 16 of sections at the beginning and inserting in lieu thereof  
 17 the following:

“Sec.

“2131. Reference to chapter 1606.

“2138. Savings provision.

18 **“§ 2131. Reference to chapter 1606**

19 “Provisions of law relating to educational assistance  
 20 for members of the Selected Reserve under the Montgom-  
 21 ery GI Bill program are set forth in chapter 1606 of this  
 22 title (beginning with section 16131).”.

23 (c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1)  
 24 Part IV of subtitle E (as added by subsection (a)) is

1 amended by adding after chapter 1606 (as added by sub-  
2 section (b)) the following:

3 **“CHAPTER 1608—HEALTH PROFESSIONS STIPEND**  
4 **PROGRAM**

“Sec.

“16201. Financial assistance: health-care professionals in reserve components.

“16202. Reserve service: required active duty for training.

“16203. Penalties and limitations.

“16204. Regulations.

5 **“§ 16204. Regulations**

6 “This chapter shall be administered under regula-  
7 tions prescribed by the Secretary of Defense.”.

8 (2) Section 2128 is transferred to chapter 1608, as  
9 added by paragraph (1), inserted after the table of sec-  
10 tions, redesignated as section 16201, and amended by  
11 striking out subsection (f).

12 (3) Section 2129 is transferred to chapter 1608, as  
13 added by paragraph (1), inserted after section 16201 (as  
14 transferred and redesignated by paragraph (2)), and re-  
15 designated as section 16202.

16 (4)(A) Section 2130 is transferred to chapter 1608,  
17 as added by paragraph (1), inserted after section 16202  
18 (as transferred and redesignated by paragraph (3)), redес-  
19 igned as section 16203, and amended by striking out  
20 subsection (c).

21 (B) The heading of that section is amended to read  
22 as follows:

1 **“§ 16203. Penalties and limitations”.**

2 (5) Section 16201, as so redesignated, is amended by  
3 striking out “subchapter” each place it appears and in-  
4 serting in lieu thereof “chapter”.

5 (6) Section 16202, as so redesignated, is amended by  
6 striking out “section 2128” both places it appears and in-  
7 serting in lieu thereof “section 16201”.

8 (7) Chapter 105 is amended—

9 (A) in the table of subchapters before sub-  
10 chapter I—

11 (i) by striking out the item relating to sub-  
12 chapter II; and

13 (ii) by redesignating the item relating to  
14 subchapter III so as to refer to subchapter II;

15 (B) by striking out the heading for subchapter  
16 II and the table of sections following that heading;  
17 and

18 (C) by redesignating subchapter III as sub-  
19 chapter II.

20 (d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1)  
21 Part IV of subtitle E (as added by subsection (a)) is  
22 amended by adding after chapter 1608 (as added by sub-  
23 section (c)) the following:

24 **“CHAPTER 1609—EDUCATION LOAN REPAYMENT**  
25 **PROGRAMS**

“Sec.

“16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.

“16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

1 **“§ 16301. Education loan repayment program: en-**  
2 **listed members of Selected Reserve with**  
3 **critical specialties**

4 “(a)(1) Subject to the provisions of this section, the  
5 Secretary of Defense may repay—

6 “(A) any loan made, insured, or guaranteed  
7 under part B of title IV of the Higher Education  
8 Act of 1965 (20 U.S.C. 1071 et seq.); or

9 “(B) any loan made under part E of such title  
10 (20 U.S.C. 1087aa et seq.).

11 Repayment of any such loan shall be made on the basis  
12 of each complete year of service performed by the bor-  
13 rower.

14 “(2) The Secretary may repay loans described in  
15 paragraph (1) in the case of any person for service per-  
16 formed as an enlisted member of the Selected Reserve of  
17 the Ready Reserve of an armed force in a reserve compo-  
18 nent and military specialty specified by the Secretary of  
19 Defense. The Secretary may repay such a loan only if the  
20 person to whom the loan was made performed such service  
21 after the loan was made.



1       “(b) The portion or amount of a loan that may be  
2 repaid under subsection (a) is 15 percent or \$500, which-  
3 ever is greater, for each year of service.

4       “(c) If a portion of a loan is repaid under this section  
5 for any year, interest on the remainder of the loan shall  
6 accrue and be paid in the same manner as is otherwise  
7 required.

8       “(d) Nothing in this section shall be construed to au-  
9 thorize refunding any repayment of a loan.

10       “(e) A person who transfers from service making the  
11 person eligible for repayment of loans under this section  
12 (as described in subsection (a)(2)) to service making the  
13 person eligible for repayment of loans under section 2171  
14 of this title (as described in subsection (a)(2) of that sec-  
15 tion) during a year shall be eligible to have repaid a por-  
16 tion of such loan determined by giving appropriate frac-  
17 tional credit for each portion of the year so served, in ac-  
18 cordance with regulations of the Secretary concerned.

19       “(f) The Secretary of Defense shall, by regulation,  
20 prescribe a schedule for the allocation of funds made avail-  
21 able to carry out the provisions of this section and section  
22 2171 of this title during any year for which funds are not  
23 sufficient to pay the sum of the amounts eligible for repay-  
24 ment under subsection (a) and section 2171(a) of this  
25 title.”.

1       (2)(A) Section 2172 is transferred to the end of chap-  
2   ter 1609, as added by paragraph (1), and redesignated  
3   as section 16302.

4       (B) The heading of such section is amended to read  
5   as follows:

6   **“§ 16302. Education loan repayment program: health**  
7               **professions officers serving in Selected**  
8               **Reserve with wartime critical medical**  
9               **skill shortages”.**

10      (e) CONFORMING AMENDMENTS.—Section 2171 is  
11   amended as follows:

12           (1) Subsection (a)(1)(B) is amended by striking  
13   out “or” after “(B)”.

14           (2) Subsection (a)(2) is amended—

15               (A) in the first sentence, by striking out  
16               “person for—” and all that follows through  
17               “(B) service performed” and inserting in lieu  
18               thereof “person for service performed”; and

19               (B) by striking out the second sentence.

20           (3) Subsection (b) is amended to read as  
21   follows:

22       “(b) The portion or amount of a loan that may be  
23   repaid under subsection (a) is 33 $\frac{1}{3}$  percent or \$1,500,  
24   whichever is greater, for each year of service.”.

1           (4) Subsection (e) is amended by striking out  
2           “Any individual who transfers from service described  
3           in clause (A) or (B) of subsection (a)(2) to service  
4           described in the other clause of such subsection”  
5           and inserting in lieu thereof “A person who trans-  
6           fers from service making the person eligible for re-  
7           payment of loans under this section (as described in  
8           subsection (a)(2)) to service making the person eligi-  
9           ble for repayment of loans under section 16301 of  
10          this title (as described in subsection (a)(2) of that  
11          section)”.

12          (5) Subsection (f) is amended—

13                 (A) by inserting “and section 16301 of this  
14                 title” after “this section”; and

15                 (B) by inserting “and section 16301(a) of  
16                 this title” after “subsection (a)”.

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

1 **“§ 2171. Education loan repayment program: enlisted**  
 2 **members on active duty in specified mili-**  
 3 **tary specialties”.**

4 **SEC. 304. LAWS RELATING TO RESERVE COMPONENT PRO-**  
 5 **CUREMENT AND EQUIPMENT.**

6 (a) ADDITION OF NEW PART.—(1) Subtitle E, as  
 7 added by section 101, is amended by adding after part  
 8 IV of such subtitle (as added by section 303) the following:

9 **“PART V—SERVICE, SUPPLY, AND**  
 10 **PROCUREMENT**

|                                                            |                       |
|------------------------------------------------------------|-----------------------|
| “Chap.                                                     | Sec.                  |
| “1801. Issue of Serviceable Material to Reserve Components | [No present sections] |
| “1803. Facilities for Reserve Components .....             | 18231                 |
| “1805. Miscellaneous Provisions .....                      | 18501                 |

11 **“CHAPTER 1801—ISSUE OF SERVICEABLE**  
 12 **MATERIAL TO RESERVE COMPONENTS**

13 “[No present sections]”.

14 (b) FACILITIES FOR RESERVE COMPONENTS.—(1)  
 15 Chapter 133 is transferred to the end of part V of subtitle  
 16 E, as added by subsection (a), and redesignated as chapter  
 17 1803.

18 (2) The sections of that chapter are redesignated  
 19 as follows:

| Section     | Redesignated section |
|-------------|----------------------|
| 2231 .....  | 18231                |
| 2232 .....  | 18232                |
| 2233 .....  | 18233                |
| 2233a ..... | 18233a               |
| 2234 .....  | 18234                |

|            |       |
|------------|-------|
| 2235 ..... | 18235 |
| 2236 ..... | 18236 |
| 2237 ..... | 18237 |
| 2238 ..... | 18238 |
| 2239 ..... | 18239 |

1       (3) The items in the table of sections at the beginning  
2 of such chapter are revised to reflect the redesignations  
3 made by paragraph (2).

4       (4) Section 18233 (as redesignated by paragraph (2))  
5 is amended by striking out “sections 2233a, 2234, 2235,  
6 2236, and 2238” in subsection (a) and inserting in lieu  
7 thereof “sections 18233a, 18234, 18235, 18236, and  
8 18238”.

9       (5) Section 18233a (as redesignated by paragraph  
10 (2)) is amended—

11           (A) in subsection (a), by striking out “section  
12 2233” and inserting in lieu thereof “section 18233”;  
13 and

14           (B) in subsection (b), by striking out “section  
15 2233(a)” and inserting in lieu thereof “section  
16 18233(a)”.

17       (6) Section 18234 (as redesignated by paragraph (2))  
18 is amended by striking out “section 2233” and inserting  
19 in lieu thereof “section 18233”.

20       (7) Section 18235 (as redesignated by paragraph (2))  
21 is amended by striking out “section 2233(a)(1)” in sub-  
22 section (a)(1) and inserting in lieu thereof “section  
23 18233”.

1       (8) Section 18236 (as redesignated by paragraph (2))  
2 is amended—

3           (A) in subsection (a)—

4               (i) by striking out “section 2233” in the  
5 first sentence and inserting in lieu thereof “sec-  
6 tion 18233”; and

7               (ii) by striking out “section 2233(a)(3) or  
8 (4)” in the second sentence and inserting in  
9 lieu thereof “paragraph (3) or (4) of section  
10 18233(a)”;

11          (B) in subsection (b)—

12               (i) by striking out “clause (4) or (5) of  
13 section 2233(a)” in the matter preceding para-  
14 graph (1) and inserting in lieu thereof “para-  
15 graph (4) or (5) of section 18233(a)”;

16               (ii) by striking out “section 2233(e)” in  
17 paragraph (2) and inserting in lieu thereof  
18 “section 18233(e)”;

19          (C) in subsection (c), by striking out “section  
20 2233” and inserting in lieu thereof “section 18233”.

21       (9) Section 18237 (as redesignated by paragraph (2))  
22 is amended—

23           (A) in subsection (a), by striking out “section  
24 2233(a)(2), (3) and (4)” and inserting in lieu there-

1 of “paragraph (2), (3), or (4) of section 18233(a)”;  
 2 and

3 (B) in subsection (b), by striking out “section  
 4 2233(a)(2), (3) or (4)” and inserting in lieu thereof  
 5 “paragraph (2), (3), or (4) of section 18233(a)”.

6 (10) Section 18239 (as redesignated by paragraph  
 7 (2)) is amended by striking out “section 2233” both places  
 8 it appears and inserting in lieu thereof “section 18233”.  
 9 (11) Part IV of subtitle A is amended by inserting  
 10 after chapter 131 the following:

11 **“CHAPTER 133—FACILITIES FOR RESERVE**  
 12 **COMPONENTS**

“Sec.  
 “2231. Reference to chapter 1803.

13 **“§ 2231. Reference to chapter 1803**

14 “Provisions of law relating to facilities for reserve  
 15 components are set forth in chapter 1803 of this title  
 16 (beginning with section 18231).”.

17 (c) MISCELLANEOUS PROVISIONS.—(1) Part V of  
 18 subtitle E, as added by subsection (a), is amended by add-  
 19 ing after chapter 1803, as transferred by subsection  
 20 (b), the following:

21 **“CHAPTER 1805—MISCELLANEOUS PROVISIONS**

“Sec.  
 “18501. Reserve components: personnel and logistic support by military depart-  
 ments.  
 “18502. Reserve components: supplies, services, and facilities.

1 **“§ 18501. Reserve components: personnel and logistic**  
2 **support by military departments**

3 “The Secretary concerned is responsible for providing  
4 the personnel, equipment, facilities, and other general lo-  
5 gistic support necessary to enable units and Reserves in  
6 the Ready Reserve of the reserve components under his  
7 jurisdiction to satisfy the training requirements and mobi-  
8 lization readiness requirements for those units and Re-  
9 serves as recommended by the Secretary concerned and  
10 by the Chairman of the Joint Chiefs of Staff and approved  
11 by the Secretary of Defense, and as recommended by the  
12 Commandant of the Coast Guard and approved by the  
13 Secretary of Transportation when the Coast Guard is not  
14 operated as a service of the Navy.

15 **“§ 18502. Reserve components: supplies, services, and**  
16 **facilities**

17 “(a) The Secretary concerned shall make available to  
18 the reserve components under his jurisdiction the supplies,  
19 services, and facilities of the armed forces under his juris-  
20 diction that he considers necessary to support and develop  
21 those components.

22 “(b) Whenever he finds it to be in the best interest  
23 of the United States, the Secretary concerned may issue  
24 supplies of the armed forces under his jurisdiction to the  
25 reserve components under his jurisdiction, without charge



1 to the appropriations for those components for the cost  
2 or value of the supplies or for any related expense.

3 “(c) Whenever he finds it to be in the best interest  
4 of the United States, the Secretary of the Army or the  
5 Secretary of the Air Force may issue to the Army National  
6 Guard or the Air National Guard, as the case may be,  
7 supplies of the armed forces under his jurisdiction that  
8 are in addition to supplies issued to that National Guard  
9 under section 702 of title 32 or charged against its appro-  
10 priations under section 106 or 107 of title 32, without  
11 charge to the appropriations for those components for the  
12 cost or value of the supplies or for any related expense.

13 “(d) Supplies issued under subsection (b) or (c) may  
14 be repossessed or redistributed as prescribed by the  
15 Secretary concerned.”.

16 (2) Section 2540 is repealed.

17 **SEC. 305. LEGISLATIVE CONSTRUCTION.**

18 (a) REFERENCES TO TRANSFERRED OR REPLACED  
19 PROVISIONS.—A reference to a provision of title 10, Unit-  
20 ed States Code, transferred or replaced by the provisions  
21 of sections 301 through 304 (including a reference in a  
22 regulation, order, or other law) shall be treated as refer-  
23 ring to that provision as transferred or to the correspond-  
24 ing provision as so enacted by this title.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 301 through 304 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

## **TITLE IV—TECHNICAL AND CLERICAL AMENDMENTS**

### **SEC. 401. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.**

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

**“E. Reserve Components .....10001”.**

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relat-

1       ing to section 123 and inserting in lieu thereof the  
2       following:

“123. Authority to suspend officer personnel laws during war or national emergency.”.

3           (3) The table of sections at the beginning of  
4       chapter 31 is amended by striking out the items re-  
5       lating to sections 510, 511, 512, and 517.

6           (4) The table of sections at the beginning of  
7       chapter 32 is amended—

8           (A) by striking out the item relating to  
9       section 524; and

10          (B) by striking out “524,” in the item re-  
11       lating to section 527.

12          (5) The table of sections at the beginning of  
13       subchapter V of chapter 36 is amended by striking  
14       out the item relating to section 644.

15          (6) The table of sections at the beginning of  
16       chapter 37 is amended by striking out the item re-  
17       lating to section 652.

18          (7) The table of sections at the beginning of  
19       chapter 39 is amended—

20           (A) by striking out the item relating to  
21       section 672 and inserting in lieu thereof the  
22       following:

“672. Reference to chapter 1209.”;

23           and

1 (B) by striking out the items relating to  
2 section 673 through 686 and section 689.

3 (8) The table of sections at the beginning of  
4 chapter 41 is amended by striking out the item re-  
5 lating to section 715.

6 (9) The table of sections at the beginning of  
7 chapter 53 is amended by striking out the item re-  
8 lating to section 1033.

9 (10) The table of sections at the beginning of  
10 chapter 59 is amended by striking out the items re-  
11 lating to sections 1162 and 1163.

12 (11) The table of sections at the beginning of  
13 chapter 69 is amended—

14 (A) by striking out the item relating to  
15 section 1374; and

16 (B) by striking out the item relating to  
17 section 1376 and inserting in lieu thereof the  
18 following:

“1376. Temporary disability retired lists.”.

19 (12) The table of sections at the beginning of  
20 chapter 101 is amended by striking out the item re-  
21 lating to section 2001.

22 (13) The table of sections at the beginning of  
23 chapter 109 is amended by striking out the items re-

1       lating to sections 2171 and 2172 and inserting in  
2       lieu thereof the following:

“2171. Education loan repayment program: enlisted members on active duty in  
specified military specialties.”.

3           (14) The table of sections at the beginning of  
4       subchapter I of chapter 152 is amended by striking  
5       out the item relating to section 2540.

6       (c) CROSS-REFERENCE AMENDMENTS—

7           (1) Section 101(a)(13) is amended by striking  
8       out “672(a), 673, 673b, 673c, 688, 3500, or 8500”  
9       and inserting in lieu thereof “688, 12301(a), 12302,  
10      12304, 12305, or 12406”.

11          (2) Section 113(c)(3) is amended by striking  
12      out “chapters 51, 337, 361, 363, 549, 573, 837,  
13      861, and 863 of this title, as far as they apply to  
14      reserve officers” and inserting in lieu thereof “chap-  
15      ters 1219 and 1401 through 1411 of this title ”.

16          (3) Section 523(b)(1) is amended—

17              (A) in subparagraph (B), by striking out  
18              “section 265” and all that follows through “of  
19              this title” and inserting in lieu thereof “section  
20              10211, 10302 through 10305, or 12402 of this  
21              title”;

22              (B) in subparagraph (C), by striking out  
23              “section 672(d)” and inserting in lieu thereof  
24              “section 12301(d)”; and

1 (C) in subparagraph (E), by striking out  
2 “section 673b” and inserting in lieu thereof  
3 “section 12304”.

4 (4) Section 527 is amended by striking out  
5 “524,” in the text and in the heading.

6 (5) Section 641(1) is amended—

7 (A) in subparagraph (B), by striking out  
8 “section 175” and all that follows through “of  
9 this title” and inserting in lieu thereof “section  
10 3038, 8038, 10211, 10301 through 10305,  
11 10501, or 12402 of this title”;

12 (B) in subparagraph (C), by striking out  
13 “section 672(d)” and inserting in lieu thereof  
14 “section 12301(d)”; and

15 (C) in subparagraph (E), by striking out  
16 “section 673b” and inserting in lieu thereof  
17 “section 12304”.

18 (6) Sections 1201, 1202, and 1203 are each  
19 amended by striking out “section 270(b)” and in-  
20 serting in lieu thereof “section 10148(a)”.

21 (7)(A) Section 1076(b)(2)(A) is amended by  
22 striking out “under chapter 67 of this title” and in-  
23 serting in lieu thereof “under chapter 1223 of this  
24 title (or under chapter 67 of this title as in effect

1 before the effective date of the Reserve Officer Per-  
2 sonnel Management Act)”:

3 (B) Section 1370(a)(1) is amended by striking  
4 out “chapter 67” and inserting in lieu thereof  
5 “chapter 1223”.

6 (8) Section 1482(f)(2) is amended by striking  
7 out “section 1332” and “section 1331” and insert-  
8 ing in lieu thereof “section 12732” and “12731”,  
9 respectively.

10 (d) SURVIVOR BENEFIT PLAN.—Subchapter II of  
11 chapter 73 is amended as follows:

12 (1) Section 1447(14) is amended by striking  
13 out “chapter 67 of this title” and inserting in lieu  
14 thereof “chapter 1223 of this title (or under chapter  
15 67 of this title as in effect before the effective date  
16 of the Reserve Officer Personnel Management Act)”.

17 (2) The following provisions are amended by  
18 striking out “section 1331(d)” and inserting in lieu  
19 thereof “section 12731(d)”: sections 1447(2)(C),  
20 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

21 **SEC. 402. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNIT-**  
22 **ED STATES CODE.**

23 (a) TABLES OF CHAPTERS.—The table of chapters  
24 at the beginning of subtitle B, and the table of chapters  
25 at the beginning of part II of that subtitle, are each

1 amended by striking out the items relating to chapters  
2 337, 361, and 363.

3 (b) TABLES OF SECTIONS.—

4 (1) The table of sections at the beginning of  
5 chapter 305 is amended by striking out the item re-  
6 lating to section 3040.

7 (2) The table of sections at the beginning of  
8 chapter 307 is amended by striking out the items re-  
9 lating to section 3076 through 3080.

10 (3) The table of sections at the beginning of  
11 chapter 331 is amended by striking out the items re-  
12 lating to section 3212 and sections 3217 through  
13 3225.

14 (4) The table of sections at the beginning of  
15 chapter 333 is amended by striking out the items re-  
16 lating to sections 3259, 3260, and 3261.

17 (5) The table of sections at the beginning of  
18 chapter 341 is amended by striking out the items re-  
19 lating to sections 3495 through 3502.

20 (6) The table of sections at the beginning of  
21 chapter 343 is amended by striking out the items re-  
22 lating to sections 3541 and 3542.

23 (7) The table of sections at the beginning of  
24 chapter 353 is amended by striking out the item re-  
25 lating to section 3686.



1 (c) CROSS REFERENCE AMENDMENTS.—

2 (1) Section 3038(b) is amended by striking out  
3 “section 265” and inserting in lieu thereof “section  
4 10211”.

5 (2) Section 3961(a) is amended by striking out  
6 “chapter 67” and inserting in lieu thereof “chapter  
7 1223”.

8 (3) Section 4342(b)(1)(B) is amended by strik-  
9 ing out “section 1331 of this title” and inserting in  
10 lieu thereof “section 12731 of this title (or under  
11 section 1331 of this title as in effect before the ef-  
12 fective date of the Reserve Officer Personnel Man-  
13 agement Act)”.

14 **SEC. 403. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNIT-**  
15 **ED STATES CODE.**

16 (a) TABLES OF CHAPTERS.—

17 (1) The table of chapters at the beginning of  
18 subtitle C is amended by striking out the items re-  
19 lating to chapters 519, 531, 541, and 549.

20 (2) The table of chapters at the beginning of  
21 part I of subtitle C is amended by striking out the  
22 item relating to chapter 519.

23 (3) The table of chapters at the beginning of  
24 part II of subtitle C is amended by striking out the  
25 items relating to chapters 531, 541, and 549.

1 (b) TABLES OF SECTIONS.—

2 (1) The table of sections at the beginning of  
3 chapter 533 is amended by striking out the items re-  
4 lating to sections 5456, 5457, and 5458.

5 (2) The table of sections at the beginning of  
6 chapter 539 is amended by striking out the item re-  
7 lating to section 5600.

8 (3) The table of sections at the beginning of  
9 chapter 555 is amended by striking out the items re-  
10 lating to sections 6017 and 6034.

11 (4) The table of sections at the beginning of  
12 chapter 573 is amended by striking out the items re-  
13 lating to sections 6391, 6392, 6397, 6403, and  
14 6410.

15 (c) CROSS REFERENCE AMENDMENTS.—

16 (1) Section 6389(a) is amended by striking out  
17 “section 1005” and inserting in lieu thereof “section  
18 12645”.

19 (2) Section 6954(b)(1)(B) is amended by strik-  
20 ing out “section 1331 of this title” and inserting in  
21 lieu thereof “section 12731 of this title (or under  
22 section 1331 of this title as in effect before the ef-  
23 fective date of the Reserve Officer Personnel Man-  
24 agement Act)’”.

1 (d) REPEAL OF SECTION REDUNDANT WITH SEC-  
2 TION 741.—

3 (1) Section 5506 is repealed.

4 (2) The table of sections at the beginning of  
5 chapter 535 is amended by striking out the item re-  
6 lating to section 5506.

7 **SEC. 404. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNIT-**  
8 **ED STATES CODE.**

9 (a) TABLES OF CHAPTERS.—The table of chapters  
10 at the beginning of subtitle D, and the table of chapters  
11 at the beginning of part II of that subtitle, are each  
12 amended by striking out the items relating to chapters  
13 837 and 863.

14 (b) TABLES OF SECTIONS.—

15 (1) The table of sections at the beginning of  
16 chapter 807 is amended by striking out the items re-  
17 lating to sections 8076 through 8080.

18 (2) The table of sections at the beginning of  
19 chapter 831 is amended by striking out the items re-  
20 lating to section 8212 and sections 8217 through  
21 8225.

22 (3) The table of sections at the beginning of  
23 chapter 833 is amended by striking out the items re-  
24 lating to sections 8259, 8260, and 8261.

1           (4) The table of sections at the beginning of  
2 chapter 841 is amended by striking out the items re-  
3 lating to sections 8495 through 8502.

4           (5) The table of sections at the beginning of  
5 chapter 843 is amended by striking out the items re-  
6 lating to sections 8541 and 8542.

7           (6) The table of sections at the beginning of  
8 chapter 853 is amended by striking out the item re-  
9 lating to section 8686.

10          (7) The table of sections at the beginning of  
11 chapter 861 is amended by striking out the items re-  
12 lating to sections 8819 and 8820.

13       (c) CROSS REFERENCE AMENDMENTS.—

14           (1) Section 8038(b) is amended by striking out  
15 “section 265” and inserting in lieu thereof “section  
16 10211”.

17           (2) Section 8961(a) is amended by striking out  
18 “chapter 67” and inserting in lieu thereof “chapter  
19 1223”.

20           (3) Section 9342(b)(1)(B) is amended by strik-  
21 ing out “section 1331 of this title” and inserting in  
22 lieu thereof “section 12731 of this title (or under  
23 section 1331 of this title as in effect before the ef-  
24 fective date of the Reserve Officer Personnel Man-  
25 agement Act)”.

1   **SEC. 405. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNIT-**  
2                   **ED STATES CODE.**

3           (a) CHAPTER 1203.—Section 12102 (as transferred  
4 and redesignated by section 302(b)(2)) is amended by  
5 striking out “section 3261 or 8261” in subsection (a) and  
6 inserting in lieu thereof “section 12107”.

7           (b) CHAPTER 1205.—Sections of chapter 1205 (as  
8 transferred and redesignated by section 302(c)(2)) are  
9 amended as follows:

10               (1) Section 12203 is amended by striking out  
11               “3352, or 8352” in subsection (a) and inserting in  
12               lieu thereof “12213, or 12214”.

13               (2) Sections 12212 and 12213 are amended by  
14               striking out “or Territory, Puerto Rico, or the Dis-  
15               trict of Columbia, whichever is” in subsection (a).

16           (c) CHAPTER 1209.—Sections of chapter 1209 (as  
17 transferred and redesignated by section 302(e)(2)) are  
18 amended as follows:

19               (1) Section 12301 is amended—

20                       (A) in subsection (b), by striking out “or  
21                       Territory” and all that follows through the pe-  
22                       riod at the end and inserting in lieu thereof  
23                       “(or, in the case of the District of Columbia  
24                       National Guard, the commanding general of the  
25                       District of Columbia National Guard).”; and

1 (B) in subsection (d), by striking out “or  
2 Territory, Puerto Rico, or the District of Co-  
3 lumbia, whichever is”.

4 (2) Section 12304 is amended—

5 (A) by striking out “section 673(a)” in  
6 subsection (a) and inserting in lieu thereof  
7 “section 12302(a)”;

8 (B) by striking out “section 268(b)” in  
9 subsection (a) and inserting in lieu thereof  
10 “section 10143(a)”;

11 (C) by striking out “section 3500 or 8500”  
12 in subsection (b) and inserting in lieu thereof  
13 “section 12406”.

14 (3) Section 12305 is amended by striking out  
15 “section 672, 673, or 673b” in subsections (a) and  
16 (b) and inserting in lieu thereof “section 12301,  
17 12302, or 12304”.

18 (4) Section 12306 is amended by striking out  
19 “section 672” in subsection (a) and inserting in lieu  
20 thereof “section 12301”.

21 (5) Section 12307 is amended by striking out  
22 “section 672(a) or 688”, “section 1001(b)”, and  
23 “chapter 67” and inserting in lieu thereof “section  
24 688 or 12301(a)”, “section 12641(b)”, and “chapter  
25 1223”, respectively.

1           (6) Section 12308 is amended by striking out  
2           “chapter 67” and “section 1332(b)” and inserting  
3           in lieu thereof “chapter 1223” and “section  
4           12732(b)”, respectively.

5           (7) Section 12310 is amended by striking out  
6           “section 672(d)” in subsection (a) and inserting in  
7           lieu thereof “section 12301(d)”.

8           (8) Section 12312 is amended by striking out  
9           “section 679(a)” in subsections (a) and (b) and in-  
10          serting in lieu thereof “section 12311(a)”.

11          (9) Section 12318 is amended—

12                (A) by striking out “section 673 or 673b”  
13                in subsections (a) and (b) and inserting in lieu  
14                thereof “section 12302 or 12304”; and

15                (B) by striking out “section 678” in sub-  
16                section (b) and inserting in lieu thereof “section  
17                12310”.

18          (10) Section 12319(d) is amended by striking  
19          out “chapter 67” and inserting in lieu thereof  
20          “chapter 1223”.

21          (11) Section 12320 is amended by striking out  
22          “section 3353, 5600, or 8353” and inserting in lieu  
23          thereof “section 12207”.

1 (d) CHAPTER 1219.—Sections of chapter 1219 (as  
2 transferred and redesignated by section 302(h)) are  
3 amended as follows:

4 (1) Section 12642 is amended—

5 (A) by striking out “section 1332(a)(2)” in  
6 subsection (a) and inserting in lieu thereof  
7 “section 12732(a)(2)”; and

8 (B) by striking out “section 1005” in sub-  
9 section (b) and inserting in lieu thereof “section  
10 12645”.

11 (2) Section 12645 is amended by striking out  
12 “chapter 337, 361, 363, 573, 837, 861, or 863” in  
13 subsection (a) and inserting in lieu thereof “chapter  
14 573, 1407, 1409, or 1411”.

15 (3) Section 12646 is amended—

16 (A) by striking out “section 1332” each  
17 place it appears in subsections (a) and (b) and  
18 inserting in lieu thereof “section 12732”;

19 (B) by striking out “chapter 337, 361,  
20 363, 573, 837, 861, or 863” in subsections (a)  
21 and (b) and inserting in lieu thereof “chapter  
22 573, 1407, or 1409”; and

23 (C) by striking out subsection (e) and in-  
24 serting in lieu thereof the following:



1       “(e)(1) A reserve commissioned officer on active duty  
2 (other than for training) or full-time National Guard duty  
3 (other than full-time National Guard duty for training  
4 only) who, on the date on which the officer would other-  
5 wise be removed from an active status under section 6389,  
6 14513, or 14514 of this title or section 740 of title 14,  
7 is within two years of qualifying for retirement under sec-  
8 tion 3911, 6323, or 8911 of this title may, in the discre-  
9 tion of the Secretary concerned and subject to paragraph  
10 (2), be retained on that duty for a period of not more  
11 than two years.

12       “(2) An officer may be retained on active duty or full-  
13 time National Guard duty under paragraph (1) only if—

14               “(A) at the end of the period for which the offi-  
15 cer is retained the officer will be qualified for retire-  
16 ment under section 3911, 6323, or 8911 of this title;  
17 and

18               “(B) the officer will not, before the end of that  
19 period, reach the age at which transfer from an ac-  
20 tive status or discharge is required by this title or  
21 title 14.

22       “(3) An officer who is retained on active duty or full-  
23 time National Guard duty under this section may not be  
24 removed from an active status while on that duty.”.

6 (a) TITLE 32, UNITED STATES CODE.—Title 32,  
7 United States Code, is amended as follows:

11 (2) Section 307(a)(3) is amended by striking  
12 out “and sections 8365 and 8366 of title 10”.

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

“310. Federal recognition of National Guard officers: automatic recognition.”.

(1) Section 204(a)(2) is amended by striking  
out “section 3021, 3496, 3541, 8021, 8496, or

1       8541” and inserting in lieu thereof “section 10302,  
2       10305, 10502, or 12402”.

3           (2) Section 205(e)(2) is amended—

4               (A) by striking out “section 511(b) or  
5       511(d)” in subparagraph (A) and inserting in  
6       lieu thereof “section 12103(b) or 12103(d)”;  
7       and

8               (B) by striking out “chapter 39” in sub-  
9       paragraph (B) and inserting in lieu thereof  
10       “chapter 1209”.

11          (3) Section 905 is amended—

12               (A) by striking out “chapter 549” in sub-  
13       section (a) and inserting in lieu thereof “chap-  
14       ter 1405”; and

15               (B) by striking out “section 5908” in sub-  
16       section (b) and inserting in lieu thereof “section  
17       14308(b)”.

18   **SEC. 407. AMENDMENTS TO OTHER LAWS.**

19       (a) TITLE 5, UNITED STATES CODE.—Title 5, Unit-  
20   ed States Code, is amended as follows:

21           (1) Section 5517(d)(2) is amended by striking  
22       out “section 270(a) of title 10” and inserting in lieu  
23       thereof “section 10147 of title 10”

24           (2) Section 6323(b) is amended—

1 (A) in paragraph (1), by striking out “sec-  
2 tion 261 of title 10” and inserting in lieu there-  
3 of “section 10101 of title 10”.

4 (B) in paragraph (2)(A), by striking out  
5 “3500, or 8500 of title 10” and inserting in  
6 lieu thereof “or 12406 of title 10”.

7 (3) Sections 8332(c)(2)(B) and 8411(c)(2)(B)  
8 are amended by striking out “chapter 67 of title 10”  
9 and inserting in lieu thereof “chapter 1223 of title  
10 10 (or under chapter 67 of that title as in effect be-  
11 fore the effective date of the Reserve Officer Person-  
12 nel Management Act)”.

13 (4) Sections 8401(30) and 8456(a)(1)(A) are  
14 amended by striking out “section 261(a) of title 10”  
15 and inserting in lieu thereof “section 10101 of title  
16 10”.

17 (b) TITLE 14, UNITED STATES CODE.—Title 14,  
18 United States Code, is amended as follows:

19 (1) Section 41a(a) is amended by striking out  
20 “section 679 of title 10” and inserting in lieu there-  
21 of “section 12311 of title 10”.

22 (2) Section 271(e) is amended by striking out  
23 “section 593 of title 10” and inserting in lieu there-  
24 of “section 12203 of title 10”.

1           (3) Section 712(c)(1) is amended by striking  
2       out “section 270 of title 10” and inserting in lieu  
3       thereof “section 10147 of title 10”.

4           (4) Section 713 is amended by striking out  
5       “section 511(d) of title 10” and inserting in lieu  
6       thereof “section 12103(d) of title 10”.

7           (5) Sections 740(c) and 741(b) are amended by  
8       striking out “section 1006 of title 10” and inserting  
9       in lieu thereof “section 12646 of title 10”.

10       (c) INTERNAL REVENUE CODE OF 1986.—Section  
11   219(g)(6)(A) of the Internal Revenue Code of 1986 is  
12   amended by striking out “section 261(a) of title 10” and  
13   inserting in lieu thereof “section 10101 of title 10”.

14       (d) TITLE 38, UNITED STATES CODE.—Title 38,  
15   United States Code, is amended as follows:

16           (1) Sections 1965(5)(B), 1965(5)(C), and  
17       1968(a)(4)(B) are amended by striking out “chapter  
18       67 of title 10” and inserting in lieu thereof “chapter  
19       1223 of title 10 (or under chapter 67 of that title  
20       as in effect before the effective date of the Reserve  
21       Officer Personnel Management Act)”.

22           (2) Section 3002 is amended—

23               (A) in paragraph (4), by striking out “sec-  
24       tion 268(b) of title 10” and inserting in lieu  
25       thereof “section 10143(a) of title 10”; and

1 (B) in paragraph (6), by striking out “sec-  
2 tion 511(d) of title 10” and inserting in lieu  
3 thereof “section 12103(d) of title 10”.

4 (e) PUBLIC LAW 99–661.—Section 403(b)(1) of Pub-  
5 lic Law 99–661 (10 U.S.C. 521 note) is amended—

6 (1) in subparagraph (B), by striking out “sec-  
7 tion 265” and all that follows through “of title 10”  
8 and inserting in lieu thereof “section 10148(a),  
9 10211, 10302 through 10305, 12301(a), or 12402  
10 of title 10”;

11 (2) in subparagraph (C), by striking out “sec-  
12 tion 672(d)” and inserting in lieu thereof “section  
13 12301(d)”; and

14 (3) in subparagraph (E), by striking out “sec-  
15 tion 673b” and inserting in lieu thereof “section  
16 12304”.

17 (f) MILITARY SELECTIVE SERVICE ACT.—Section 6  
18 of the Military Selective Service Act (50 U.S.C. App. 456)  
19 is amended—

20 (1) in subsection (c)(2)(A), by striking out  
21 “section 270 of title 10” and inserting in lieu there-  
22 of “section 10147 of title 10”;

23 (2) in subsection (c)(2)(D), by striking out  
24 “section 511(b) of title 10” and inserting in lieu  
25 thereof “section 12103 of title 10”; and

1           (3) in subsection (d)(1), by striking out “sec-  
2       tion 270(a) of title 10” and inserting in lieu thereof  
3       “section 10147 of title 10”.

4       **TITLE V—TRANSITION PROVISIONS**

5       **SEC. 501. CONTINUATION ON THE RESERVE ACTIVE-STA-**  
6                       **TUS LIST OF CERTAIN RESERVE COLONELS**  
7                       **OF THE ARMY AND AIR FORCE.**

8       (a) CONTINUATION UNDER OLD LAW.—Except as  
9       provided in subsection (b), a reserve officer of the Army  
10      or the Air Force who, on the effective date of this Act—

11           (1) is subject to placement on the reserve  
12      active-status list of the Army or the Air Force; and

13           (2)(A) holds the reserve grade of colonel, (B) is  
14      on a list of officers recommended for promotion to  
15      the reserve grade of colonel, or (C) has been nomi-  
16      nated by the President for appointment in the re-  
17      serve grade of colonel,

18      shall continue to be subject to mandatory transfer to the  
19      Retired Reserve or discharge from the officer’s reserve ap-  
20      pointment under section 3851 or 8851 of title 10, United  
21      States Code, as in effect on the day before the effective  
22      date of this Act.

23      (b) EXEMPTION.—This section does not apply to an  
24      officer who is—

1 (1) sooner transferred from an active status or  
2 discharged under some other provision of law;

3 (2) promoted to a higher grade, unless the offi-  
4 cer was on a list of officers recommended for pro-  
5 motion to the reserve grade of colonel before the  
6 effective date of this Act; or

7 (3) continued on the reserve active-status list  
8 under section 14701 of title 10, United States Code,  
9 as added by this Act.

10 **SEC. 502. EFFECTS OF SELECTION FOR PROMOTION AND**  
11 **FAILURE OF SELECTION FOR ARMY AND AIR**  
12 **FORCE OFFICERS.**

13 (a) PROMOTIONS TO FILL VACANCIES.—A reserve  
14 commissioned officer of the Army or Air Force (other than  
15 a commissioned warrant officer) who, on the day before  
16 the effective date of this Act, is recommended for pro-  
17 motion to fill a vacancy in the Army Reserve or the Air  
18 Force Reserve under section 3383, 3384, 8372, or 8373  
19 of title 10, United States Code, as in effect on the day  
20 before the effective date of this Act, in the next higher  
21 reserve grade shall be considered to have been rec-  
22 ommended for promotion to that grade by a vacancy  
23 promotion board under section 14101(a)(2) of title 10,  
24 United States Code, as added by this Act.



1       (b) PROMOTIONS OTHER THAN TO FILL VACAN-  
2 CIES.—A reserve officer of the Army or Air Force who,  
3 on the day before the effective date of this Act, is rec-  
4 ommended for promotion under section 3366, 3367, 3370,  
5 3371, 8366, or 8371 of title 10, United States Code, as  
6 in effect on the day before the effective date of this Act,  
7 to a reserve grade higher than the grade in which the offi-  
8 cer is serving shall be considered to have been rec-  
9 ommended for promotion by a mandatory promotion board  
10 convened under section 14101(a)(1) of title 10, United  
11 States Code, as added by this Act.

12       (c) OFFICERS FOUND QUALIFIED FOR PROMOTION  
13 TO FIRST LIEUTENANT.—A reserve officer of the Army  
14 or Air Force who, on the effective date of the Act, holds  
15 the grade of second lieutenant and has been found quali-  
16 fied for promotion to the grade of first lieutenant in ac-  
17 cordance with section 3365, 3382, or 8365 of title 10,  
18 United States Code, as in effect on the day before the ef-  
19 fective date of this Act, shall be promoted to that grade  
20 on the date on which the officer would have been promoted  
21 under the provisions of chapter 337 or 837 of such title,  
22 as in effect on the day before the effective date of the  
23 Act, unless sooner promoted under regulations prescribed  
24 by the Secretary of the Army or the Secretary of the Air

1 Force under section 14308(b) of title 10, United States  
2 Code, as added by this Act.

3 (d) OFFICERS ONCE FAILED OF SELECTION.—(1) A  
4 reserve officer of the Army in the grade of first lieutenant,  
5 captain, or major who, on the day before the effective date  
6 of this Act, has been considered once but not rec-  
7 ommended for promotion to the next higher reserve grade  
8 under section 3366 or 3367 of title 10, United States  
9 Code, or a reserve officer of the Air Force in the grade  
10 of first lieutenant, captain, or major who, on the day be-  
11 fore the effective date of this Act, is a deferred officer  
12 within the meaning of section 8368 of such title, shall be  
13 considered to have been considered once but not selected  
14 for promotion by a board convened under section  
15 14101(a)(1) of title 10, United States Code, as added by  
16 this Act. If the officer is later considered for promotion  
17 by a selection board convened under that section and is  
18 not selected for promotion (or is selected for promotion  
19 but declines to accept the promotion), the officer shall be  
20 considered for all purposes to have twice failed of selec-  
21 tion for promotion.

22 (2) In the case of a reserve officer of the Army or  
23 Air Force in an active status who, on the day before the  
24 effective date of this Act, is in the grade of first lieutenant,  
25 captain, or major and whose name has been removed,

1 under the provisions of section 3363(f) of title 10, United  
2 States Code, from a list of officers recommended for pro-  
3 motion or who has previously not been promoted because  
4 the President declined to appoint the officer in the next  
5 higher grade under section 8377 of such title as in effect  
6 on the day before the effective date of the Act, or whose  
7 name was removed from a list of officers recommended  
8 for promotion to the next higher grade because the Senate  
9 did not consent to the officer's appointment, if the officer  
10 is later considered for promotion by a selection board con-  
11 vened by section 14101(a)(1) of title 10, United States  
12 Code, as added by this Act, and (A) is not selected for  
13 promotion, (B) is selected for promotion but removed from  
14 the list of officers recommended or approved for pro-  
15 motion, or (C) is selected for promotion but declines to  
16 accept the promotion, the officer shall be considered for  
17 all purposes to have twice failed of selection for promotion.

18 (e) OFFICERS TWICE FAILED OF SELECTION.—A re-  
19 serve officer of the Army or Air Force in an active status  
20 who, on the day before the effective date of this Act, is  
21 in the grade of first lieutenant, captain, or major and on  
22 that date is subject to be treated as prescribed in section  
23 3846 or 8846 of title 10, United States Code, shall con-  
24 tinue to be governed by that section as in effect on the  
25 day before the effective date of this Act.

1       (f) OFFICERS WITH APPROVED PROMOTION DEC-  
2   LINATIONS IN EFFECT.—A reserve officer of the Army  
3   who, on the day before the effective date of this Act, has  
4   declined a promotion under subsection (f) or (g) of section  
5   3364 of title 10, United States Code, shall while carried  
6   on the reserve active status list be subject to the provisions  
7   of subsections (h), (i), and (j) of such section, as in effect  
8   on the day before the effective date of the Act, except that  
9   the name of an officer to whom this section applies shall  
10  be placed on a promotion list under section 14308(a) of  
11  title 10, United States Code (as added by this Act), and,  
12  at the end of the approved period of declination, shall be  
13  considered to have failed of promotion if the officer  
14  again declines to accept the promotion.

15       (g) COVERED OFFICERS.—This section applies to re-  
16  serve officers of the Army and Air Force who—

17           (1) on the day before the effective date of this  
18   Act are in an active status; and

19           (2) on the effective date of this Act are subject  
20   to placement on the reserve active-status list of the  
21   Army or the Air Force.

1 **SEC. 503. EFFECTS OF SELECTION FOR PROMOTION AND**  
2 **FAILURE OF SELECTION FOR NAVY AND MA-**  
3 **RINE CORPS OFFICERS.**

4 (a) **RECOMMENDATIONS FOR PROMOTION.**—An offi-  
5 cer covered by this section who, on the day before the ef-  
6 fective date of the Act, has been recommended for pro-  
7 motion to a reserve grade higher than the grade in which  
8 the officer is serving shall be considered to have been rec-  
9 ommended for promotion to that grade under section  
10 14101(a) of title 10, United States Code, as added by this  
11 Act.

12 (b) **FAILURES OF SELECTION.**—An officer covered by  
13 this section who, on the day before the effective date of  
14 this Act is considered to have failed of selection for pro-  
15 motion one or more times under chapter 549 of title 10,  
16 United States Code, to a grade below captain, in the case  
17 of a reserve officer of the Navy, or to a grade below colo-  
18 nel, in the case of a reserve officer of the Marine Corps,  
19 shall be subject to chapters 1405 and 1407 of title 10,  
20 United States Code, as added by this Act, as if such fail-  
21 ure or failures had occurred under the provisions of those  
22 chapters.

23 (c) **OFFICERS OTHER THAN COVERED OFFICERS**  
24 **RECOMMENDED FOR PROMOTION.**—A reserve officer of  
25 the Navy or Marine Corps who on the day before the effec-  
26 tive date of this Act (1) has been recommended for pro-

1 motion in the approved report of a selection board con-  
2 vened under chapter 549 of title 10, United States Code,  
3 and (2) was on the active-duty list of the Navy or Marine  
4 Corps may be promoted under that chapter, as in effect  
5 on the day before the effective date of this Act.

6 (d) OFFICERS FOUND QUALIFIED FOR PROMOTION  
7 TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTEN-  
8 ANT.—A covered officer who, on the effective date of this  
9 Act, holds the grade of second lieutenant and has been  
10 found qualified for promotion in accordance with section  
11 5908 or 5910 of title 10, United States Code, as in effect  
12 on the day before the effective date of this Act, shall be  
13 promoted on the date on which the officer would have been  
14 promoted under the provisions of chapter 549 of such title,  
15 as in effect on the day before the effective date of the  
16 Act, unless sooner promoted under regulations prescribed  
17 by the Secretary of the Navy under section 14307(b) of  
18 such title, as added by this Act.

19 (e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED  
20 FROM A LIST FURNISHED TO A SELECTION BOARD.—A  
21 covered officer whose name, as of the effective date of this  
22 Act, had been omitted by administrative error from the  
23 list of officers furnished the most recent selection board  
24 to consider officers of the same grade and component,  
25 shall be considered by a special selection board established

1 under section 14502 of title 10, United States Code, as  
2 added by this Act. If the officer is selected for promotion  
3 by that board, the officer shall be promoted as specified  
4 in section 5904 of title 10, United States Code, as in effect  
5 on the day before the effective date of this Act.

6 (f) COVERED OFFICERS.—Except as provided in sub-  
7 section (c), this section applies to any reserve officer of  
8 the Navy or Marine Corps who (1) before the effective  
9 date of this Act is in an active status, and (2) on the effec-  
10 tive date of this Act is subject to placement on the reserve  
11 active-status list of the Navy or Marine Corps.

12 **SEC. 504. DELAYS IN PROMOTIONS AND REMOVALS FROM**  
13 **PROMOTION LIST.**

14 (a) DELAYS IN PROMOTIONS.—(1) A delay in a pro-  
15 motion that is in effect on the day before the effective date  
16 of this Act under the laws and regulations in effect on  
17 that date shall continue in effect on and after that date  
18 as if the promotion had been delayed under section 14311  
19 of title 10, United States Code, as added by this Act.

20 (2) The delay of the promotion of a reserve officer  
21 of the Army or the Air Force which was in effect solely  
22 to achieve compliance with limitations set out in section  
23 524 of title 10, United States Code or with regulations  
24 prescribed by the Secretary of Defense with respect to sec-  
25 tions 3380(c) and 8380(c) of title 10, United States Code,

1 as in effect on the day before the effective date of this  
2 Act, shall continue in effect as if the promotion had been  
3 delayed under section 14311(e) of such title, as added by  
4 this Act.

5 (b) REMOVALS FROM LIST.—An action that was ini-  
6 tiated before the effective date of this Act under the laws  
7 and regulations in effect before that date to remove the  
8 name of an officer from a promotion list or from a list  
9 of officers recommended or approved for promotion shall  
10 continue on and after such date as if such action had been  
11 initiated under section 14110(d) or 14310, as appropriate,  
12 of title 10, United States Code, as added by this Act.

13 **SEC. 505. MINIMUM SERVICE QUALIFICATIONS FOR PRO-**  
14 **MOTION.**

15 During the five-year period beginning on the effective  
16 date of this Act, the Secretary of the Army and the Sec-  
17 retary of the Air Force may waive the provisions of section  
18 14304 of title 10, United States Code, as added by this  
19 Act. The Secretary may, in addition, during any period  
20 in which such a waiver is in effect, establish minimum pe-  
21 riods of total years of commissioned service an officer  
22 must have served to be eligible for consideration for pro-  
23 motion to the grade of captain, major, or lieutenant colo-  
24 nel by boards convened under section 14101(a) of title 10,  
25 United States Code, as added by this Act.



1 **SEC. 506. ESTABLISHMENT OF RESERVE ACTIVE-STATUS**  
2 **LIST.**

3 (a) **SIX-MONTH DEADLINE.**—Not later than six  
4 months after the effective date of this Act, the Secretary  
5 of the military department concerned shall ensure that—

6 (1) all officers of the Army, Navy, Air Force,  
7 and Marine Corps who are required to be placed on  
8 the reserve active-status list of their Armed Force  
9 under section 14002 of title 10, United States Code,  
10 as added by this Act, shall be placed on the list for  
11 their armed force and in their competitive category;  
12 and

13 (2) the relative seniority of those officers on  
14 each such list shall be established.

15 (b) **REGULATIONS.**—The Secretary concerned shall  
16 prescribe regulations for the establishment of relative se-  
17 niority. The Secretary of the Army and the Secretary of  
18 the Air Force shall, in prescribing such regulations, pro-  
19 vide for the consideration of both promotion service estab-  
20 lished under section 3360(b) or 8360(e) of title 10, United  
21 States Code, as in effect on the day before the effective  
22 date of this Act, and total commissioned service estab-  
23 lished under section 3360(c) or 8366(e) of such title, as  
24 in effect on the day before the effective date of this Act.  
25 An officer placed on a reserve active-status list in accord-

1   ance with this section shall be considered to have been on  
2   the list as of the effective date of this Act.

3   **SEC. 507. PRESERVATION OF RELATIVE SENIORITY UNDER**  
4                   **THE INITIAL ESTABLISHMENT OF THE RE-**  
5                   **SERVE ACTIVE-STATUS LIST.**

6       In order to maintain the relative seniority among re-  
7   serve officers of the Army, Navy, Air Force, or Marine  
8   Corps as determined under section 506 of this Act, the  
9   Secretary of the military department concerned may, dur-  
10   ing the one-year period beginning on the effective date of  
11   this Act, adjust the date of rank of any reserve officer  
12   of such Armed Force who was in an active status but not  
13   on the active-duty list on such effective date.

14   **SEC. 508. GRADE ON TRANSFER TO THE RETIRED RESERVE.**

15       In determining the highest grade held satisfactorily  
16   by a person at any time in the Armed Forces for the pur-  
17   poses of paragraph (2) of section 1406(b) of title 10, Unit-  
18   ed States Code, as added by this Act, the requirement for  
19   satisfactory service on the reserve active-status list con-  
20   tained in section 1370(d) of title 10, United States Code,  
21   as added by this Act, shall apply only to reserve commis-  
22   sioned officers who are promoted to a higher grade as a  
23   result of selection for promotion under chapter 36 of that  
24   title or under chapter 1405 of that title, as added by this  
25   Act, or having been found qualified for Federal recognition

1 in a higher grade under chapter 3 of title 32, United  
2 States Code, after the effective date of this Act.

3 **SEC. 509. RIGHTS FOR OFFICERS WITH OVER THREE YEARS**  
4 **SERVICE.**

5 A reserve officer of the Army, Navy, Air Force, or  
6 Marine Corps who was in an active status on the day be-  
7 fore the effective date of this Act and who was subject  
8 to placement of the reserve active-status list on the effec-  
9 tive date of this Act may not be discharged under section  
10 14503 of title 10, United States Code, as added by this  
11 Act, until on or after the day on which that officer com-  
12 pletes three years of continuous service as a reserve com-  
13 missioned officer.

14 **SEC. 510. MANDATORY SEPARATION FOR AGE FOR CERTAIN**  
15 **RESERVE OFFICERS OF THE NAVY AND MA-**  
16 **RINE CORPS.**

17 (a) SAVINGS PROVISIONS FOR REQUIRED SEPARA-  
18 TION AGE.—A reserve officer of the Navy or the Marine  
19 Corps—

20 (1) who—

21 (A) on the effective date of this Act is in  
22 an active status, and

23 (B) on the day before the effective date of  
24 this Act was an officer described in section

1           6389(e), 6397(a), 6403(a), or 6403(b) of title  
2           10, United States Code; and

3           (2) who, on or after the effective date of this  
4       Act is subject to elimination from an active status  
5       under any provision of such title,  
6       is entitled to be treated as that officer would have been  
7       treated under section 6397 or 6403 as applicable, as in  
8       effect on the day before the effective date of this Act, if  
9       that treatment would result in the date for the officer's  
10      separation from an active status being a later date than  
11      the date established under the law in effect on or after  
12      the effective date of this Act.

13       (b) SAVINGS PROVISIONS FOR MANDATORY SEPARA-  
14      TION FOR AGE.—An officer who was initially appointed  
15      in the Naval Reserve or the Marine Corps Reserve before  
16      January 1, 1953, and who cannot complete 20 years of  
17      service computed under section 12732 of this title before  
18      he becomes 62 years of age, but can complete this service  
19      by the time he becomes 64 years of age, may be retained  
20      in an active status not later than the date he becomes 64  
21      years of age.

22       (c) An officer who was initially appointed in the  
23      Naval Reserve or the Marine Corps Reserve before the ef-  
24      fective date of this Act, and who cannot complete 20 years  
25      of service computed under section 12732 of this title be-

1 fore he becomes 60 years of age, but can complete this  
2 service by the time he becomes 62 years of age, may be  
3 retained in an active status not later than the date he be-  
4 comes 62 years of age.

5       **TITLE VI—EFFECTIVE DATES AND**  
6       **GENERAL SAVINGS PROVISIONS**

7       **SEC. 601. EFFECTIVE DATE.**

8       (a) GENERAL EFFECTIVE DATE.—Except for section  
9 205, this Act and the amendments made by this Act shall  
10 take effect on the first day of the ninth month that begins  
11 after the date of the enactment of this Act.

12       (b) REGULATIONS.—The authority to prescribe regu-  
13 lations under the amendments made by this Act shall take  
14 effect on the date of the enactment of this Act.

15       **SEC. 602. PRESERVATION OF SUSPENDED STATUS OF LAWS**  
16       **SUSPENDED AS OF EFFECTIVE DATE.**

17       If a provision of law that is in a suspended status  
18 on the day before the effective date of this Act is trans-  
19 ferred or amended by this Act, the suspended status of  
20 that provision is not affected by that transfer or amend-  
21 ment.

22       **SEC. 603. PRESERVATION OF PRE-EXISTING RIGHTS, DU-**  
23       **TIES, PENALTIES, AND PROCEEDINGS.**

24       Except as otherwise provided in this Act, the provi-  
25 sions of this Act and the amendments made by this Act

1 do not affect rights and duties that matured, penalties  
2 that were incurred, or proceedings that were begun before  
3 the effective date of this Act.

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