

position unless such person is a citizen of the United States of America or of the Republic of Panama: *Provided, however*, (1) That, notwithstanding the provision in the Act approved August 11, 1939 (53 Stat. 1409), limiting employment in the above-mentioned positions to citizens of the United States from and after the date of the approval of said Act, citizens of Panama may be employed in such positions; (2) that at no time shall the number of Panamanian citizens employed in the above-mentioned positions exceed the number of citizens of the United States so employed, if United States citizens are available in continental United States or on the Canal Zone; (3) that nothing in this Act shall prohibit the continued employment of any person who shall have rendered fifteen or more years of faithful and honorable service on the Canal Zone; (4) that in the selection of personnel for skilled, technical, administrative, clerical, supervisory, or executive positions, the controlling factors in filling these positions shall be efficiency, experience, training and education; (5) that all citizens of Panama and the United States rendering skilled, technical, clerical, administrative, executive, or supervisory service on the Canal Zone under the terms of this Act (a) shall normally be employed not more than forty hours per week; (b) may receive as compensation equal rates of pay based upon rates paid for similar employment in continental United States plus 25 per centum; (6) this entire section shall apply only to persons employed in skilled, technical, clerical, administrative, executive, or supervisory positions on the Canal Zone directly or indirectly by any branch of the United States Government or by any corporation or company whose stock is owned wholly or in part by the United States Government: *Provided further*, That the President may suspend compliance with this section in time of war or national emergency if he should deem such course to be in the public interest.

SEC. 8. All funds appropriated by this Act, and all amounts herein made available for contractual obligation shall be immediately available.

SEC. 9. This Act may be cited as the "Military Appropriation Act, 1941".

Approved, June 13, 1940.

[CHAPTER 344]

AN ACT

To provide for the promotion of promotion-list officers of the Army after specified years of service in grade, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2 of the Act of July 31, 1935 (49 Stat. 505), is hereby repealed.

SEC. 2. Section 3 of the said Act of July 31, 1935, is hereby amended to read as follows:

"SEC. 3. The number of promotion-list officers that shall be in the respective grades at any time after the effective date of this Act shall be such as results from the operation of the promotion system herein-after in this section prescribed. Promotion-list second lieutenants and first lieutenants shall be promoted to the respective grades of first lieutenant and captain immediately upon completing respectively three years' and ten years' continuous commissioned service in the Regular Army, but not otherwise. Except as hereinafter provided promotion-list captains, majors, and lieutenant colonels shall be promoted to the respective grades of major, lieutenant colonel, and colonel immediately upon completing respectively seventeen years',

*Proviso.*  
Employment of Panamanian citizens.  
48 U. S. C., Supp. V, § 1307.

Limitation on number.

Employment after 15 years' service.

Selection of personnel.

Hours of employment; rates of pay.

Section applicable only to designated persons.

Authority of President to suspend compliance.

Funds immediately available.

Short title.

June 13, 1940  
[H. R. 9243]  
[Public, No. 612]

Army.  
Promotion-list officers.  
Repeal.  
10 U. S. C., Supp. V, § 553b.  
10 U. S. C., Supp. V, § 552a.  
Number in grades.

Second and first lieutenants, promotions; service requirements.

Captains, majors, and lieutenant colonels, promotions; service requirements.

*Provisos.*  
Number of colonels limited.

Majors and lieutenant colonels, required service within grades.

Exception.

Continuous service assumed for promotion purposes; exception.

Order of promotion.

Rank.

49 Stat. 507,  
10 U. S. C., Supp.  
V, § 971b.

Retirement provisions; service requirements.

Pay.

*Provisos.*  
Computation of service.

Officers serving prior to Nov. 12, 1918.

Retirements for age in 1942 and thereafter.

twenty-three years', and twenty-eight years' continuous commissioned service in the Regular Army: *Provided*, That at no time shall the number of promotion-list colonels exceed seven hundred and five: *Provided further*, That promotion-list majors and lieutenant colonels shall not be promoted to the respective grades of lieutenant colonel and colonel until they shall have completed respectively six years' and five years' continuous commissioned service under permanent appointments in the grades of major and lieutenant colonel, except that for the purpose of determining years of such service in grade officers promoted to or serving in the respective grades of major and lieutenant colonel shall, in addition to receiving credit for all actual continuous commissioned service in the Regular Army in those grades, receive constructive credit of one-half the amount of their continuous commissioned service in the Regular Army in excess of seventeen and twenty-three years, respectively: *Provided further*, That each promotion-list officer shall be assumed to have, for promotion purposes, at least the same length of continuous commissioned service in the Regular Army and service in grade as any officer junior to him, in his grade, on the promotion list, except that an officer sentenced by courts martial to loss of files on the promotion list shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the promotion list: *Provided further*, That no officer shall be promoted, under the provisions of this section, in advance of any officer in the same grade whose name appears above his on the promotion list, except that the promotion of an officer shall not be withheld by reason of the fact that an officer senior to him on the promotion list is for any reason not eligible for promotion: *And provided further*, That hereafter all promotion-list officers in any grade shall take rank among themselves according to their standing on the promotion list."

SEC. 3. That section 5 of the said Act of July 31, 1935, is hereby amended to read as follows:

"That whenever any officer on the active list of the Regular Army or Philippine Scouts shall have completed not less than fifteen nor more than twenty-nine years' service, he may upon his own application be retired, in the discretion of the Secretary of War with annual pay equal to 2½ per centum of his active-duty annual pay at the time of his retirement, multiplied by a number equal to the years of his active service not in excess of twenty-nine years: *Provided*, That the numbers of years of service to be credited in computing the right to retirement and retirement pay hereinbefore provided in this section shall include all service now or hereafter credited for active-duty pay purposes, any fractional part of a year amounting to six months or more to be counted as a complete year: *Provided further*, That any officer on the active list of the Regular Army or Philippine Scouts who served in any capacity as a member of the military or naval forces of the United States prior to November 12, 1918, shall upon his own application be retired with annual pay equal to 75 per centum of his active-duty annual pay at the time of his retirement unless entitled to retired pay of a higher grade as hereinafter provided, except that officers with less than twenty years' service and officers who are under investigation or who are awaiting trial by courts martial or the result of such trial, or whose cases are pending before courts of inquiry shall be retired only when the application for retirement in each case has been approved by the Secretary of War: *Provided further*, That on June 30, 1942, all brigadier generals of the line who are then sixty-two years of age or over and all promotion-list officers who are then sixty

years of age or over shall be retired, and thereafter all brigadier generals of the line shall be retired at the age of sixty-two years and all promotion-list officers shall be retired at the age of sixty years, except that all officers in the grade of general officer whose names are carried on the promotion list are exempted from the operation of this proviso and in addition thereto the Secretary of War may, in his discretion, exempt from the operation of this proviso such number of colonels as will result in there being on active duty at any time a number of colonels who would otherwise be retired not greater than 5 per centum of the total number of colonels then on the promotion list, but such exemption shall terminate in each case when the officer reaches the age of sixty-two, or sooner in the discretion of the Secretary of War, and colonels so exempted shall be included within the authorized number of promotion-list colonels: *Provided further*, That any promotion-list officer retired for any reason except by operation of section 24b, National Defense Act, or wholly retired, who has completed twenty-eight or more years of continuous commissioned service in the Regular Army and who has failed to reach the grade of colonel by reason of the limitation on the number of promotion-list officers in the grade of colonel or by reason of the restriction of years of service in grade of major or lieutenant colonel shall be retired in the grade of colonel with retired pay computed as otherwise provided by law for a colonel with the same length of service including all service now or hereafter credited for active-duty pay purposes, and any such officer who has completed more than twenty-three but less than twenty-eight years of continuous commissioned service in the Regular Army and who has failed to reach the grade of lieutenant colonel by reason of the restriction of years of service in grade of major shall be retired in the grade of lieutenant colonel with retired pay computed as otherwise provided by law for a lieutenant colonel with the same length of service including all service now or hereafter credited for active-duty pay purposes: *Provided further*, That each promotion-list officer shall be assumed to have for retirement purposes, at least the same length of continuous commissioned service in the Regular Army as any officer junior to him on the promotion list: *Provided further*, That the number of years of service to be credited in computing the right to retirement and retirement pay in the case of officers retired by reason of having reached the age of sixty years or over shall include all service heretofore credited for retirement at age sixty-four: *Provided further*, That nothing in this Act shall operate to deprive any officer of the retired rank to which he is now entitled under the provisions of law: *And provided further*, That all officers retired under the provisions of this section shall be placed on the unlimited retired list."

SEC. 4. That hereafter brigadier generals of the line shall be appointed from among officers of the line commissioned in grades not below that of lieutenant colonel who are credited with twenty-eight years' continuous commissioned service in the Regular Army as hereinbefore provided and whose names are borne on an eligible list prepared annually by a board of not less than five general officers of the line, not below the grade of major general; and hereafter appointment as chief of any branch shall be made from among officers commissioned in grades not below that of lieutenant colonel who are credited with twenty-eight years' continuous commissioned service in the Regular Army as hereinbefore provided, and who have demonstrated by actual and extended service in such branch or on similar duty that they are qualified for such appointment.

Exception.

Retirements in grade of colonel and lieutenant colonel.  
41 Stat. 773.  
10 U. S. C. § 571.

Continuous service assumed for retirement purposes.

Service computation of officers 60 years of age or over.

Retention of retired rank.

Officers on unlimited retired list.

Brigadier generals of the line, appointment.

Chiefs, service branches, appointment.

Effective date; repeal of conflicting, etc., laws.

SEC. 5. Except as otherwise provided, this Act shall be effective July 1, 1940, and all laws and parts of laws, so far as they are inconsistent with or in conflict with any of the provisions hereof, are hereby repealed as of that date.

Approved, June 13, 1940.

[CHAPTER 345]

AN ACT

June 13, 1940  
[S. 1777]  
[Public, No. 613]

Granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact or agreement for division of the waters of the Little Missouri River.

Little Missouri River.  
Negotiations for division of water supply of, authorized.

U. S. representative.

Report to Congress.

Proviso.  
Approval of agreement.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That consent of Congress is hereby given to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact or agreement not later than January 1, 1943, providing for an equitable division and apportionment among the States of the water supply of the Little Missouri River and of the streams tributary thereto, upon conditions that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact or agreement entered into: *Provided*, That any such compact or agreement shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been approved by the legislature of each of said States and by the Congress of the United States.

Approved, June 13, 1940.

[CHAPTER 346]

AN ACT

June 13, 1940  
[S. 2328]  
[Public, No. 614]

To promote on the retired list officers who were decorated and recommended for promotion for distinguished service during the World War and who have not attained the rank to which recommended.

Army.  
Promotion on retired list of certain decorated officers.

41 Stat. 773.  
10 U. S. C. § 571.

Provisos.  
Deceased officers.

No increase of pay, etc.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any commissioned officer of the Army below the grade of brigadier general, now retired or hereafter retired, except those retired under the provisions of section 24b of the Act of June 4, 1920, who for services rendered during the World War was officially recommended in writing for promotion to increased rank by a division commander or coordinate or higher authority or by the chief of a staff corps or department, and who has not attained said rank, and who as evidenced by bestowal of Medal of Honor or Distinguished Service Cross or Distinguished Service Medal rendered exceptionally meritorious services or demonstrated gallantry in action beyond the call of duty shall, upon application, be advanced one grade on the retired list: *Provided*, That any such officer on the active or retired list who died or may die prior to the approval of this Act, or on the active list who may hereafter die before retirement, shall upon application in his behalf be advanced one grade as of date of death: *Provided further*, That such promotion shall not carry with it any increase of pay or allowances.

Approved, June 13, 1940.