

Public Law 97-22
97th Congress

An Act

July 10, 1981
[H.R. 3807]

To make technical corrections in the Defense Officer Personnel Management Act.

Defense Officer
Personnel
Management
Act Technical
Corrections Act.
10 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Defense Officer Personnel Management Act Technical Corrections Act".

10 USC 101 note.

(b) Whenever in this Act a reference is made to a section of title 10, United States Code, as added or amended by "the Act", the reference shall be considered to be a reference to that section as added or amended effective September 15, 1981, by the Defense Officer Personnel Management Act (Public Law 96-513; 94 Stat. 2835).

SEC. 2. (a) Section 101(41) of title 10, United States Code (as added by section 101 of the Act (94 Stat. 2840)), is amended by inserting "or Coast Guard" after "Navy".

(b) Section 138(c)(3)(D)(iii)(I) of such title (as added by section 102(a)(2) of the Act (94 Stat. 2840)) is amended by striking out "and active military service".

(c) Section 266(a) of such title (as amended by section 501(4) of the Act (94 Stat. 2907)) is amended—

(1) by striking out "title," and inserting in lieu thereof "title and except for boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps,"; and

(2) by striking out "an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense" and inserting in lieu thereof "at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion".

SEC. 3. (a) Section 531 of such title (as added by section 104(a) of the Act (94 Stat. 2845)) is amended—

(1) by inserting "(a)" before "Original appointments"; and
(2) by adding at the end thereof the following new subsection:

"(b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title."

(b) Section 532(d) of such title (as added by section 104(a) of the Act (94 Stat. 2846)) is amended by striking out "medical officer or dental officer or as a chaplain" and inserting in lieu thereof "medical or dental officer, as a chaplain, or as an officer designated for limited duty in the Regular Navy or Regular Marine Corps".

(c)(1) Subsection (b)(1)(A) of section 533 of such title (as added by section 104(a) of the Act (94 Stat. 2846)) is amended—

(A) by inserting “, designated, or assigned” in the first sentence after “persons appointed”;

(B) by striking out “appointment as a commissioned officer” in the first sentence and inserting in lieu thereof “such appointment, designation, or assignment”; and

(C) by striking out the second sentence and inserting in lieu thereof the following: “Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.”

(2) Subsection (b)(1)(B) of such section is amended by striking out “as an officer” and inserting in lieu thereof “, designation, or assignment”.

(3) Subsection (b)(1)(E) of such section is amended by inserting “, designated, or assigned” in the second sentence after “being appointed”.

(4) Subsection (d)(1) of such section is amended by adding at the end thereof the following new sentence: “However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.”

(5) Subsection (f) of such section is amended to read as follows: “(f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall—

“(1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and

“(2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.”

SEC. 4. (a)(1) Paragraph (2) of subsection (a) of section 612 of title 10, United States Code (as added by section 105 of the Act (94 Stat. 2851)), is amended to read as follows:

“(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

“(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher

than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.”.

(2) Paragraph (3) of such subsection is amended—

(A) by inserting “, with the exact number of reserve officers to be determined by the Secretary of the military department concerned in his discretion” after “at least one reserve officer of that armed force”; and

(B) by striking out the period at the end thereof and inserting in lieu thereof “who are eligible to serve on the board.”.

(3) Such subsection is further amended by striking out paragraph (4) and inserting in lieu thereof the following:

“(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

“(5) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.”.

(4) Subsection (b) of such section is amended by inserting “convened under section 611(a) of this title” after “selection boards”.

10 USC 614.

(b) Section 614(a) of such title (as added by section 105 of the Act (94 Stat. 2852)) is amended by striking out “, the names of the officers eligible for consideration by the board as of the date of the notification, the convening date of the board,” and inserting in lieu thereof “which shall include the convening date of the board”.

(c) Section 619(c)(2) of such title (as added by section 105 of the Act (94 Stat. 2855)) is amended—

(1) by striking out “and” at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof “for the purposes of clause (A); and”; and

(3) by adding at the end thereof the following new clause:

“(C) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer is placed on the active-duty list during which the officer shall be ineligible for consideration for promotion.”.

(d)(1) Subsection (a) of section 624 of such title (as added by section 105 of the Act (94 Stat. 2857)) is amended—

(A) by striking out “or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President,” in paragraph (1); and

(B) by adding at the end of paragraph (2) the following new sentence: “Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.”.

(2) Subsection (c) of such section is amended by striking out “in the grade of first lieutenant or lieutenant (junior grade) under this section” and inserting in lieu thereof “under this section in the grade of first lieutenant or captain or lieutenant (junior grade) or lieutenant”.

(3) Subsection (d) of such section is amended—

(A) by striking out “The Secretary concerned may delay the appointment of an officer under this section if—” in paragraph (1) and inserting in lieu thereof “Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may be delayed if—”;

(B) by inserting “then unless action to delay an appointment has also been taken under subsection (d)(2)” after “as the case may be,” in the second sentence of paragraph (1);

(C) by striking out “The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that” in paragraph (2) and inserting in lieu thereof “Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may also be delayed in any case in which”;

(D) by striking out the period at the end of the first sentence of paragraph (3) and inserting in lieu thereof “, unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable.”; and

(E) by striking out “by the Secretary” in the second sentence of paragraph (3).

(e)(1) Section 637(b) of such title (as added by section 105 of the Act (94 Stat. 2864)) is amended by striking out “section 633, 634, 635, or 636” in paragraph (1) and inserting in lieu thereof “section 633 or 634”.

10 USC 637.

(2) Paragraph (2) of such section is amended to read as follows:

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

Retirement
deferments.

(f) Section 638(a) of such title (as added by section 105 of the Act (94 Stat. 2864)) is amended by striking out “four” in clauses (3) and (4) and inserting in lieu thereof “three and one-half”.

(g) Section 689 of such title (as added by section 106 of the Act (94 Stat. 2868)) is amended by striking out the period and inserting in lieu thereof “, except that a reserve officer who is credited with service under section 3353, 5600, or 8353 of this title and is ordered to active duty may be ordered to active duty in a reserve grade and with a date of rank and position on the active-duty list determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.”.

(h)(1) The table in subsection (a) of section 741 of such title (as amended by section 107 of the Act (94 Stat. 2869)) is amended to read as follows:

"Army, Air Force, and Marine Corps	Navy and Coast Guard
General.....	Admiral.
Lieutenant general	Vice admiral.
Major general.....	Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard).
Brigadier general	Commodore admiral (Navy) and Rear admiral (lower half) (Coast Guard).
Colonel.....	Captain.
Lieutenant colonel	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant.....	Ensign."

(2) Subsection (c) of such section is amended by inserting "of the Army, Navy, Air Force, and Marine Corps" after "officers".

(3) Subsection (d) of such section is amended—

(A) by inserting "of the Army, Navy, Air Force, or Marine Corps" in paragraph (1) after "officer" both places it appears; and

(B) by inserting "of the Army, Navy, Air Force, or Marine Corps" in paragraph (3) after "(other than a warrant officer)".

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

"§741. Rank: commissioned officers of the armed forces".

SEC. 5. (a)(1) Subsection (b) of section 3064 of title 10, United States Code (as amended by section 231 of the Act (94 Stat. 2886)), is amended by striking out "may appoint commissioned officers in, and may assign members to," and inserting in lieu thereof "may assign commissioned officers (other than officers of the Regular Army) and members to".

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

"(c) Commissioned officers of the Regular Army may be appointed in a special branch, but the Secretary may not assign any officer of the Regular Army to a special branch."

(b) Section 3210(a) of such title (as amended by section 502(5) of the Act (94 Stat. 2909)) is amended by striking out ", exclusive of the number authorized for the Army Medical Department and the Chaplains," and ", exclusive of the number of commissioned officers on the active-duty list authorized for the Army Medical Department and the Chaplains".

(c)(1) Subsection (a) of section 3353 of such title (as amended by section 205(a) of the Act (94 Stat. 2881)) is amended—

(A) by inserting "or an assignment to an officer category in which advanced education or training or special experience is required or will be directly used" in paragraph (1) after "in the Army";

(B) by inserting "or assignment" in paragraph (1) after "such appointment" both places it appears;

(C) by inserting "as a regular officer on active duty or as a reserve officer" in paragraph (1) after "that he performed"; and

(D) by striking out "receiving an original appointment" and "at the time of such appointment" in paragraph (2).

(2) Subsection (b)(1) of such section is amended—

(A) by inserting "or an assignment to an officer category in which advanced education or training or special experience is required or will be directly used" after "officer in the Army";

(B) by striking out "appointed in" in subparagraph (A) and inserting in lieu thereof "assigned to";

(C) by striking out "appointment as a commissioned officer" in subparagraph (A) and inserting in lieu thereof "such assignment";

(D) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof the following: "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.".

(E) by striking out "appointment as an officer," in subparagraph (B) and inserting in lieu thereof "assignment as an officer in such health profession,";

(F) by striking out "appointed" in the second sentence of subparagraph (E) and inserting in lieu thereof "assigned to such health profession"; and

(G) by striking out "appointed in" in subparagraph (F) and inserting in lieu thereof "assigned to".

(3) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof "or his assignment to an officer category in which advanced education or training or special experience is required or will be directly used."

(4) Subsection (c) of such section is amended—

(A) by inserting "as a commissioned officer (other than a warrant officer) on active duty or" after "while serving"; and

(B) by adding at the end thereof the following new sentence:

"However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer."

(5) Subsection (d) of such section is amended by striking out "in the Judge Advocate General's Corps with a view to an immediate call to active duty" and inserting in lieu thereof "with a view to assignment in the Judge Advocate General's Corps".

SEC. 6. (a) Subsection (c) of section 5155 of title 10, United States Code (as added by section 351 of the Act (94 Stat. 2902)), is amended to read as follows:

"(c) The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of commodore admiral. An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary. For the purpose of computing the total number of flag officers in the staff corps of the Navy under section

5444 of this title, an officer so appointed shall be considered an additional number in grade.”.

10 USC 5444.

(b)(1) Section 5444 of such title (as amended by section 302 of the Act (94 Stat. 2888)) is amended by striking out “specified” each place it appears in subsection (b) and inserting in lieu thereof “prescribed”.

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

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

(c)(1) Subsection (a) of section 5600 of such title (as amended by section 328 of the Act (94 Stat. 2895)) is amended—

(A) by inserting “or who is designated in an officer category in which advanced education or training or special experience is required or will be directly used” in paragraph (1) after “Marine Corps Reserve”;

(B) by inserting “or designation” in paragraph (1) after “such appointment” both places it appears;

(C) by inserting “as a regular officer on active duty or as a reserve officer” in paragraph (1) after “that he performed”; and

(D) by striking out “receiving an original appointment” and “at the time of such appointment” in paragraph (2).

(2) Subsection (b)(1) of such section is amended—

(A) by inserting “or a designation in an officer category in which advanced education or training or special experience is required or will be directly used” after “officer in the Navy or Marine Corps”;

(B) by inserting “or designated” in subparagraph (A) after “appointed”;

(C) by inserting “or designation in such a category” in subparagraph (A) after “commissioned officer”; and

(D) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof the following: “Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.”.

(3) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof “or his designation in an officer category in which advanced education or training or special experience is required or will be directly used.”.

(4) Subsection (c) of such section is amended—

(A) by inserting “as a commissioned officer (other than a warrant officer) on active duty or” after “while serving”; and

(B) by adding at the end thereof the following new sentence: “However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or

receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.”

SEC. 7. (a) Subsection (a) of section 8353 of title 10, United States Code (as amended by section 205(b) of the Act (94 Stat. 2882)), is amended—

(1) by striking out “337 and 363” in paragraph (1) and inserting in lieu thereof “837 and 863”;

(2) by inserting “, or receiving a designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used,” in paragraph (1) after “in the Air Force”;

(3) by inserting “, designation, or assignment” in paragraph (1) after “such appointment” both places it appears;

(4) by inserting “as a regular officer on active duty or as a reserve officer” in paragraph (1) after “that he performed”; and

(5) by striking out “receiving an original appointment” in paragraph (2) and “at the time of such appointment”.

(b) Subsection (b)(1) of such section is amended—

(1) by inserting “or a designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used” after “officer in the Air Force”;

(2) by striking out “appointed in” in subparagraph (A) and inserting in lieu thereof “designated in or assigned to”;

(3) by striking out “appointment as a commissioned officer” in subparagraph (A) and inserting in lieu thereof “such designation or assignment”;

(4) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof “Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.”

(5) by striking out “appointment as an officer,” in subparagraph (B) and inserting in lieu thereof “designation or assignment as an officer in such health profession,”; and

(6) by striking out “appointed” in the second sentence of subparagraph (E) and inserting in lieu thereof “designated in or assigned to such health profession”.

(c) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof “or his designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used.”

(d) Subsection (c) of such section is amended—

(A) by inserting “as a commissioned officer (other than a warrant officer) on active duty or” after “while serving”; and

(B) by adding at the end thereof the following new sentence: “However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years

normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.”

(e) Subsection (d) of such section is amended by striking out “in the Judge Advocate General’s Corps” and inserting in lieu thereof “with a view to designation as a judge advocate”.

10 USC 611 note. Sec. 8. (a) Section 601 of the Defense Officer Personnel Management Act (94 Stat. 2940) is amended—

(1) by striking out “paragraph” in subsection (b) and inserting in lieu thereof “subsection”; and

(2) by adding at the end thereof the following new subsection:
“(d)(1) Any delay of a promotion of an officer referred to in clause (2) or (3) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

94 Stat. 2857.

“(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) or (3) of subsection (a) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.”

10 USC 611 note.

(b) Section 602 of such Act (94 Stat. 2940) is amended—

(1) by striking out clause (3) of subsection (b) and inserting in lieu thereof the following:

“(3) either holds a reserve grade higher than the temporary grade in which he is serving or is on a list of officers recommended for promotion to a reserve grade higher than the temporary grade in which he is serving;” and

(2) by adding at the end thereof the following new subsection:
“(c)(1) Any delay of a promotion of an officer referred to in clause (B) of subsection (a)(1) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion has been delayed under section 624(d) of title 10, United States Code, as added by this Act.

“(2) Any action to remove from a promotion list the name of an officer referred to in clause (B) of subsection (a)(1) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.”

94 Stat. 2860.

10 USC 611 note.

(c) Section 608(a)(1) of such Act (94 Stat. 2943) is amended by inserting “or is on a list of officers recommended for promotion to” after “serving in”.

94 Stat. 2945.

10 USC 611 note.

(d) Section 611 of such Act (94 Stat. 2943) is amended by adding at the end thereof the following new subsection:

“(c)(1) Any delay of a promotion of an officer referred to in clause (2) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date, shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

“(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) of subsection (a) which was initiated before September 15, 1981, under the laws and regulations in effect

before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.”

(e) Section 612 of such Act (94 Stat. 2945) is amended—

(1) by striking out “An” and inserting in lieu thereof “(a) Except as provided in subsection (b), an”; and

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

“(b) An officer who during fiscal year 1981—

“(1) failed twice of selection for promotion to the grade of either lieutenant or lieutenant commander, in the case of an officer in the Navy, or to either captain or major, in the case of an officer in the Marine Corps; and

“(2) had not previously failed of selection for promotion to that grade,

may not, because of such failures of selection, be involuntarily separated, involuntarily discharged, or retired under chapter 36 of title 10, United States Code, as added by this Act, before June 30, 1982, unless the officer so requests.”

(f) Section 613 of such Act (94 Stat. 2945) is amended—

(1) by striking out the period in subsection (a)(1) and inserting in lieu thereof “, except that an officer for whom no means can be established under the laws in effect on September 14, 1981, for computing creditable service in determining whether the officer is subject to involuntary retirement shall be retired under chapter 573 of title 10, United States Code, as in effect on September 14, 1981, on the basis of the years of service of such officer as determined under regulations prescribed under section 624(b).”;

(2) by striking out subsection (a)(2)(A) and inserting in lieu thereof the following:

“(A) removed from active duty under section 1184 of title 10, United States Code, as added by this Act;”;

(3) by inserting “day before the” in subsections (b)(1) and (b)(2) after “who on the”.

(g) Section 615(c) of such Act (94 Stat. 2948) is amended by striking out “, in lieu of being reappointed in the line of the Navy under subsection (a), be appointed in that staff corps” and inserting in lieu thereof “request appointment in a staff corps and, with the approval of the Secretary of the Navy, be appointed in that staff corps. Any appointment under this subsection shall be in lieu of the reappointment of the officer under subsection (a)”.

(h) Section 616 of such Act (94 Stat. 2949) is amended—

(1) by inserting “(a)” before “An officer”; and

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

“(b) Any female member of the Navy who on April 2, 1981, was appointed under section 591 or 5590 of title 10, United States Code, in the grade of ensign as an officer designated for limited duty may after September 14, 1981, be reappointed as an officer designated for limited duty under section 5596 of title 10, United States Code, as amended by this Act. A member so reappointed shall have a date of rank as an ensign of April 2, 1981, and shall have the same permanent pay grade and status as that member held on April 1, 1981.”

(i) Part B of title VI of such Act (94 Stat. 2945), is amended by adding at the end thereof the following new sections:

94 Stat. 2860.

10 USC 611 note.

94 Stat. 2850.

10 USC 611 note.

10 USC 6371 *et seq.*

94 Stat. 2951.

10 USC 611 note.

10 USC 611 note.

10 USC 611 note.

"CONTINGENCY AUTHORITY FOR NAVY PROMOTIONS UNDER PRIOR LAW

10 USC 611 note. "SEC. 619. If necessary because of unforeseen circumstances, the Secretary of the Navy, during fiscal year 1982, may convene boards to select officers for promotion under chapters 545 and 549 of title 10, United States Code, as in effect on September 14, 1981, and officers so selected may be promoted in accordance with such chapters. An officer promoted to a higher grade under the authority of this section shall be subject to sections 613 and 629 as if he held that grade on September 14, 1981, and shall have a date of rank to be determined under section 741 of title 10, United States Code, as amended by this Act.

10 USC 5751 *et seq.*, 5891 *et seq.*

94 Stat. 2945, 2953.

10 USC 611 note.

94 Stat. 2869.

"RETENTION ON ACTIVE DUTY OF CERTAIN RESERVE LIEUTENANT
COMMANDERS

10 USC 611 note. "SEC. 620. Notwithstanding section 6389 of title 10, United States Code, an officer who on September 14, 1981—

"(1) holds the grade of lieutenant commander in the Naval Reserve;

"(2) is on active duty as the result of recall orders accepted subsequent to a break in active commissioned service;

"(3) is subject to placement on the active-duty list; and

"(4) is considered—

"(A) to have failed of selection for promotion to the grade of commander one or more times under chapter 545 of title 10, United States Code, as in effect on September 14, 1981; or

"(B) to have been later considered to have failed of selection for promotion to the grade of commander one or more times under chapter 36 of title 10, United States Code, as added by this Act,

may be retained on active duty by the Secretary of the Navy for such period as the Secretary considers appropriate."

10 USC 611 note. (j) Section 621(b) of such Act (94 Stat. 2950) is amended to read as follows:

"(b) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the Secretary of the military department concerned, in order to maintain the relative seniority among officers of the Army, Navy, Air Force, and Marine Corps as it existed on September 14, 1981, may adjust the date of rank of officers—

"(1) below the grade of brigadier general or commodore admiral during the one-year period beginning on September 15, 1981; and

"(2) above the grade of colonel or, in the case of the Navy, captain until there are no longer any officers to whom section 614(d) is applicable."

10 USC 611 note. (k) Section 624(b) of such Act (94 Stat. 2951) is amended—

(1) by inserting "subject to placement on the active-duty list on September 15, 1981," after "In the case of an officer"; and

(2) by striking out "Defense" and inserting in lieu thereof "the military department concerned".

10 USC 611 note. (l) Section 626(b) of such Act (94 Stat. 2952) is amended by striking out "any provision of chapter 36" and inserting in lieu thereof "section 1251".

10 USC 611 note. (m) Section 629 of such Act (94 Stat. 2953) is amended by adding at the end thereof the following new sentence: "The Secretary of the military department concerned may waive the requirements of this

section and of section 1370(a)(2) of title 10, United States Code, as added by this Act, with respect to any officer described in the preceding sentence.”

(n) Part C of title VI of such Act (94 Stat. 2950) is amended by adding at the end thereof the following new sections:

“SAVINGS PROVISION FOR RETIRED GRADE OF CERTAIN RESERVE OFFICERS

“SEC. 634. Unless entitled to a higher grade under any other provision of law, a member of the Army or Air Force who is a reserve officer and who—

10 USC 611 note.

“(1) is on active duty on September 14, 1981; and

“(2) after such date retires under section 3911 or 8911 of title 10, United States Code,

is entitled to retire in the reserve grade which he held or to which he had been selected for promotion on September 14, 1981.

“SAVINGS PROVISION FOR ORIGINAL APPOINTMENT IN CERTAIN GRADES UNDER EXISTING REGULATIONS

“SEC. 635. Any person who before September 15, 1981—

10 USC 611 note.

“(1) was selected for participation in a postbaccalaureate educational program leading to an appointment as a commissioned officer or had completed a postbaccalaureate program and was selected for appointment as a commissioned officer of the Army, Navy, Air Force, or Marine Corps;

“(2) under regulations of the Secretary of the military department concerned in effect on December 12, 1980, would have been appointed and ordered to active duty in a grade specified or determined in accordance with such regulations; and

“(3) had not been so appointed and ordered to active duty, may be appointed and ordered to active duty in such grade with a date of rank and position on the active-duty list junior to that of all other officers of the same grade and competitive category serving on active duty.

“RETENTION IN GRADE OF CERTAIN RESERVE OFFICERS

“SEC. 636. A reserve officer of the Army, Navy, Air Force, or Marine Corps who on September 14, 1981—

10 USC 611 note.

“(1) is serving on active duty (A) under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System, or (B) under section 708 of title 32; and

“(2) is serving in a temporary grade or is selected for promotion to a temporary grade, may continue to serve in or may be promoted to and serve in such grade until promoted to a higher grade, separated, or retired.

“SAVINGS PROVISION REGARDING DISCHARGE OF REGULAR OFFICERS

“SEC. 637. An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps who on September 14, 1981, was serving on active duty may not be discharged under section 630(1)(A) of title 10, United States Code, as added by this Act, on or after the day on which that officer completes three years of continuous service as a regular commissioned officer.

10 USC 611 note.

"REPAYMENT OF READJUSTMENT AND SEVERANCE PAY

10 USC 611 note.
94 Stat. 2870.

"SEC. 638. Notwithstanding section 1174(h) of title 10, United States Code, as added by this Act, a person who received readjustment or severance pay before September 15, 1981, and who, on or after September 15, 1981, becomes entitled to retired or retainer pay under any provision of title 10 or title 14, United States Code, shall be required to repay that readjustment pay or severance pay in accordance with the laws in effect on September 14, 1981."

10 USC 101, 14
USC 1.

10 USC 611 note.

(o) Section 641 of such Act (94 Stat. 2954) is amended—

(1) by inserting "or Dental Corps" in clause (1) after "Medical Corps" both places it appears;

(2) by inserting "or dental officer" in clause (1) after "medical officer" both places it appears; and

(3) by inserting "or 302b" in clause (2) after "section 302".

(p) The table of contents in section 1(b) of such Act (94 Stat. 2835) is amended—

(1) by inserting after the item relating to section 618 the following new items:

"Sec. 619. Contingency authority for Navy promotions under prior law.

"Sec. 620. Retention on active duty of certain reserve lieutenant commanders.";

and

(2) by inserting after the item relating to section 633 the following new items:

"Sec. 634. Savings provision for retired grade of certain reserve officers.

"Sec. 635. Savings provision for original appointments in certain grades under existing regulations.

"Sec. 636. Retention in grade of certain reserve officers.

"Sec. 637. Savings provision regarding discharge of regular officers.

"Sec. 638. Repayment of readjustment and severance pay."

Service in grade
requirements for
women.
10 USC 5752
note.

SEC. 9. Notwithstanding section 5752(a)(3) of title 10, United States Code, for selection boards convened on or after the date of enactment of this Act and before September 15, 1981, service in grade requirements shall be established under regulations prescribed by the Secretary of the Navy for eligibility for consideration for promotion of female officers in the line of the Navy to the grade of lieutenant commander and female officers in the Marine Corps to the grade of major.

SEC. 10. (a)(1) Section 501(10) of the Defense Officer Personnel Management Act (94 Stat. 2908) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) by striking out the item relating to section 741 and inserting in lieu thereof:

"741. Rank: commissioned officers of the armed forces.; and"

(2) Section 502 of such Act (94 Stat. 2908) is amended—

(A) by striking out subparagraph (B) of paragraph (9) and inserting in lieu thereof the following:

"(B) by adding at the end thereof the following new item:

"3396. Exclusion of officers on the active-duty list.'";

and

(B) by striking out "8066" in the first quoted matter in paragraph (19)(A) and inserting in lieu thereof "3066".

10 USC 3962.

10 USC 5444,
5455.

(3) Section 503 of such Act (94 Stat. 2911) is amended by striking out paragraphs (19), (23), and (24).

(4) Section 504(11) of such Act (94 Stat. 2916) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) by adding at the end thereof the following new item:

"8396. Exclusion of officers on the active-duty list.'".

(b) Effective September 15, 1981, title 10, United States Code, is amended as follows:

(1) Section 123(a) is amended by striking out "3494," and "8494," 10 USC 123.

(2) Section 1075 is amended by inserting "or an enlisted member of a uniformed service entitled to basic allowance for subsistence," after "uniformed service" in the first sentence.

(3) Section 2147(d)(1) is amended by striking out "section 1072(2)(E)" and inserting in lieu thereof "section 1072(2)(D)". 94 Stat. 1113.

(4) Section 3034(b) is amended by striking out the comma after "grade".

(5) The table of sections at the beginning of chapter 367 is amended by striking out the item relating to section 3922.

(6)(A) Section 5455 is repealed.

Repeal.

(B) The table of sections at the beginning of chapter 533 is amended by striking out the item relating to section 5455.

(7) The table of sections at the beginning of chapter 539 is amended—

(A) by striking out the item relating to section 5573a; and

(B) by striking out the item relating to section 5596 and inserting in lieu thereof the following:

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

(8) Section 6325(b) is amended—

(A) by striking out "under section 5597" and inserting in lieu thereof "or promoted under section 603"; and

(B) by striking out "5787 or 5787d" and inserting in lieu thereof "602 or 5721".

(9) Section 8034(b) is amended by striking out the comma after "grade".

(10)(A) Section 1174(c) is amended by striking out "on or after the effective date of the Defense Officer Personnel Management Act" and inserting in lieu thereof "after September 14, 1981,". 94 Stat. 2870.

(B) Sections 5896, 5897, 5898(b), 5899, and 6403(a) are amended by striking out "the effective date of the Defense Officer Personnel Management Act" each place it appears and inserting in lieu thereof "September 15, 1981". 94 Stat. 2914, 2915.

(c) Effective September 15, 1981, section 415(a) of title 37, United States Code, is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)".

(d) Effective September 15, 1981, Public Law 93-397 (10 U.S.C. 8202 note) is repealed. Repeal.

SEC. 11. (a) Title 10, United States Code, is amended as follows:

(1) Section 977(a) is amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" and inserting in lieu thereof "after September 7, 1980". 94 Stat. 1119.

(2) Section 1079(b)(4) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services". 94 Stat. 3254.

(3) Sections 1450(d) and 1452(e) are amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(4) Section 1451(a)(4) is amended by striking out "the effective date of the Uniformed Services Survivor Benefits Amendments of 1980" and inserting in lieu thereof "December 1, 1980". 94 Stat. 1705.

(5) Section 1452(g)(4) is amended by striking out "section 1452 of this title" and inserting in lieu thereof "this section". 94 Stat. 1706.

10 USC 1489.
94 Stat. 1979.

94 Stat. 2092.
94 Stat. 2162.

94 Stat. 1017,
1018.

(6) Section 1489(b)(3) is amended by striking out "section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)" and inserting in lieu thereof "section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973)".

(7) Section 2002(a) is amended—

(A) in the text preceding clause (1) by inserting "(22 U.S.C. 4021(b))" after "section 701(b) of the Foreign Service Act of 1980"; and

(B) in clause (2) by inserting "(22 U.S.C. 4021(a))" after "section 701(a) of the Foreign Service Act of 1980".

(8) Sections 2324(b)(2)(B) and 2328 are amended by striking out "this Act" and inserting in lieu thereof "this chapter".

(9) Section 2688(a) is amended by striking out "the date of the enactment of the Military Construction Authorization Act, 1980" and inserting in lieu thereof "November 26, 1979".

(10) Section 7430(e) is amended by striking out "1969" each place it appears and inserting in lieu thereof "1979".

(11) Section 9621(f) is amended by striking out the comma in the second sentence.

(b)(1) Section 308c(e) of title 37, United States Code, is amended by striking out "Secretary of defense" and inserting in lieu thereof "Secretary of Defense".

(2) Effective as of October 1, 1980, the second sentence of section 403(b) of title 37, United States Code, is amended by striking out "who is in" and all that follows through "who is assigned" and inserting in lieu thereof "who is in a pay grade above pay grade E-6 and who is assigned".

(3)(A) The heading of section 406b of title 37, United States Code, is amended to read as follows:

"§406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating away from home port".

(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating away from home port."

(c) Section 806(b) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1777), is amended by striking out "section 2662" and inserting in lieu thereof "section 2672".

Approved July 10, 1981.

LEGISLATIVE HISTORY—H.R. 3807:

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