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DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

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HEARING

BEFORE THE

SUBCOMMITTEE ON
MANPOWER AND PERSONNEL

OF THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 5503

TO AMEND TITLES 10 AND 37, UNITED STATES CODE, RELAT-
ING TO THE APPOINTMENT, PROMOTION, SEPARATION, AND
RETIREMENT OF MEMBERS OF THE ARMED FORCES, AND FOR
OTHER PURPOSES

JUNE 27, 1978

Printed for the use of the Committee on Armed Services



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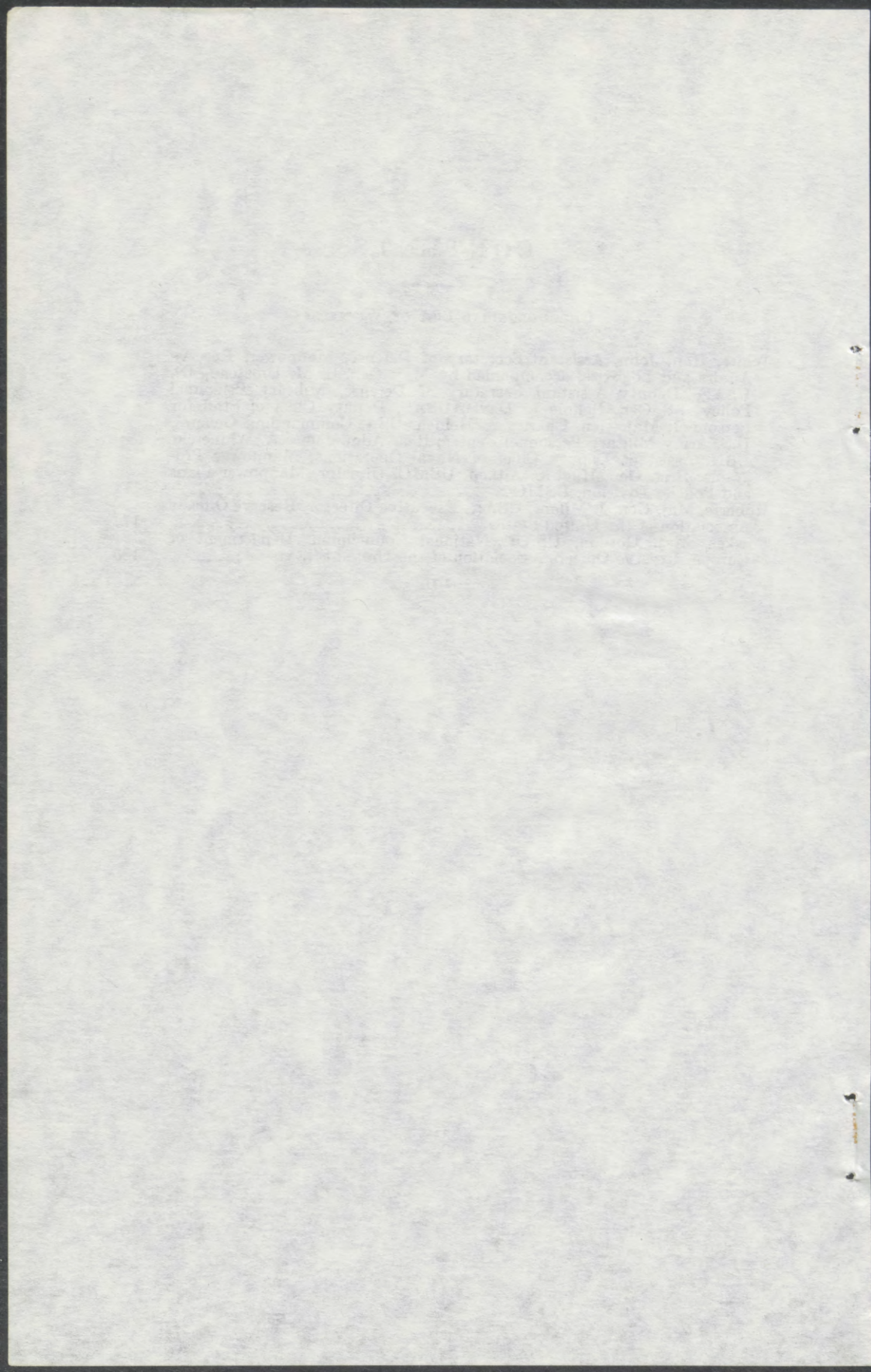
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DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

TUESDAY, JUNE 27, 1978

U.S. SENATE,
SUBCOMMITTEE ON MANPOWER AND PERSONNEL,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 212, Russell Senate Office Building, Senator Sam Nunn (chairman), presiding.

Present: Senators Nunn and Bartlett.

Also present: George F. Travers, Charles J. Conneely, Rhett B. Dawson, Kenneth W. Fish, professional staff members; John T. Ticer, chief clerk; Judy Landesman, clerk; Lew Ashley, assistant to Senator Hatfield; Ron Lehman, assistant to Senator Bartlett; Frank Krebs, assistant to Senator Cannon; and Arnold Punaro, assistant to Senator Nunn.

OPENING STATEMENT BY SENATOR SAM NUNN, CHAIRMAN

Senator NUNN. I apologize for being late this morning. We had a vote on the floor first thing this morning so I thought it would be better to go ahead and vote, and not interrupt the hearing.

The Subcommittee on Manpower and Personnel meets today to receive testimony on H.R. 5503, the proposed Defense Officer Personnel Management Act. This bill has been passed by the House and addresses one of the most important aspects of the U.S. national security—the selection and management of the military leaders, the commanders, and top and middle members of our Armed Forces. The purpose of the bill is to revise the laws which govern active duty commissioned officer management by first establishing new statutory limits on the numbers of active duty officers who may serve in the senior grades below flag rank, and, second, providing uniformed laws regulating appointment, promotion, tenure, separation, and retirement of active duty Regular and Reserve commissioned officers.

Members of this subcommittee and the staff, with the assistance of experts from the Congressional Research Service, the Congressional Budget Office, private consultants, and representatives of the Department of Defense have been carefully examining this proposal for some time. Three previous hearings by this subcommittee have been held on DOPMA. Several markup sessions were held in the last Congress when members of the subcommittee and staff reviewed the issues in depth. In fact, the very first hearing of the Manpower and Personnel Subcommittee 4 years ago was held to consider the ex-

tension of grade authorization for Air Force lieutenant colonels and colonels.

These deliberations have made it clear that the issues associated with effective military management are complex and are not susceptible to quick resolution.

As I have previously said, I believe we need an officer personnel system that provides youthful, vigorous personnel to perform many combat jobs but also produces an officer corps with sufficient experience. We need an officer management system which will attract qualified officers to the military careers in the grades required to meet mission-based requirements at an acceptable level of manpower costs. We also need an officer system adequately controlled by the Congress which will also give the President, as Commander in Chief, as much management flexibility as can safely and constitutionally be granted without eroding civilian control and congressional control over the military. I hope that today's hearing will lead the way to enactment of a bill which will meet these criteria.

[The bill follows:]

95TH CONGRESS
2D SESSION

H. R. 5503

IN THE SENATE OF THE UNITED STATES

FEBRUARY 20 (legislative day, FEBRUARY 6), 1978

Read twice and referred to the Committee on Armed Services

AN ACT

To amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled, That this Act may*
3 *be cited as the "Defense Officer Personnel Management Act".*

4 SEC. 2. Subtitle A of title 10, United States Code, is amended by:

5 (1) Inserting the following new item in the chapter analysis
6 and the chapter analysis of part II:

"30. Strength and Distribution in Grade----- 451".

7 (2) Inserting the following new chapter in part II:

8 **"Chapter 30.—STRENGTH AND DISTRIBUTION IN GRADE**

"Sec.

"451. Armed forces: members on active duty.

"452. Commissioned officers on active duty in grades below brigadier general or commodore admiral.

"453. Commissioned officers on active duty in grades below brigadier general or commodore admiral; prescribed number; vacancies.

1 **“§ 451. Armed forces: members on active duty**

2 “(a) The total strength of an armed force (other than the Coast
3 Guard when it is not operating as a service in the Navy) in mem-
4 bers on active duty is as authorized annually by law. Unless otherwise
5 provided by law, that strength does not include—

6 “(1) Reserves on active duty for training;

7 “(2) members paid directly from appropriations for the reserve
8 components;

9 “(3) Reserves ordered to active duty in time of war, or of na-
10 tional emergency declared by Congress or the President after
11 January 1, 1977;

12 “(4) members in a Reserve Officers’ Training Corps or other
13 officer candidate programs under which the period of active duty
14 does not exceed six months; and

15 “(5) officers on active duty for the administration of the Selec-
16 tive Service System under section 10(b) (2) of the Military Selec-
17 tive Service Act, as amended (50 U.S.C. App. 460(b) (2)).

18 “(b) Unless otherwise provided by law:

19 “(1) The Secretary of Defense may, for any armed force except
20 the Coast Guard when it is not operating as a service in the Navy,
21 prescribe the total strength in officers on active duty.

22 “(2) The Secretary of the military department concerned may
23 prescribe the numbers of any other category of members of an
24 armed force under his jurisdiction authorized to be on active
25 duty.

26 “(3) The total strength and officer strength of the Navy shall
27 be increased by the authorized total strength and officer strength
28 of the Coast Guard when the Coast Guard is operating as a service
29 in the Navy. However, during such a period the Secretary of
30 Defense may prescribe the total strength in Navy, Coast Guard,
31 and Marine Corps officers on active duty, as the case may be. The
32 Secretary of the Navy may prescribe the total numbers of any
33 other category of members of the Navy, Coast Guard, and Ma-
34 rine Corps authorized to be on active duty, as the case may be.

35 **“§ 452. Commissioned officers on active duty in grades below**
36 **brigadier general or commodore admiral**

37 “(a) Of the total number of commissioned officers serving on active
38 duty in the Army, Navy, Air Force, or Marine Corps, as the case may
39 be, exclusive of the officers specified in subsection (d), the number
40 of commissioned officers who may serve in each of the grades named

1 in the table below may not, except as provided in subsections (c)
 2 and (f), exceed a number appropriate to the total as set forth in the
 3 following table:

"Total number of commissioned officers, excluding officers specified in subsection (d), on active duty"	Colonel or captain (Navy)	Lieutenant colonel or commander	Major or lieutenant commander
Army:			
70,000	3,706	9,244	13,396
75,000	3,896	9,587	14,242
80,000	4,085	9,933	15,065
85,000	4,265	10,267	15,911
90,000	4,455	10,613	16,756
95,000	4,663	11,090	17,329
100,000	4,870	11,588	17,925
Navy:			
45,000	2,600	6,025	9,738
48,000	2,730	6,230	10,229
51,000	2,861	6,436	10,721
54,000	2,991	6,642	11,212
57,000	3,121	6,874	11,704
60,000	3,253	7,052	12,195
63,000	3,327	7,283	12,642
66,000	3,421	7,504	13,105
Marine Corps:			
12,500	625	1,436	2,743
15,000	635	1,515	2,943
17,500	647	1,595	3,142
20,000	676	1,707	3,371
22,500	704	1,818	3,600
25,000	732	1,928	3,828
27,500	760	2,039	4,056
Air Force:			
85,000	4,407	10,830	16,517
90,000	4,607	11,243	17,321
95,000	4,806	11,649	18,126
100,000	5,007	12,054	18,930
105,000	5,207	12,459	19,735
110,000	5,407	12,864	20,539
115,000	5,576	13,168	21,186
120,000	5,752	13,511	21,893

4 If the number of commissioned officers serving on active duty is be-
 5 tween two of the figures listed in the first column of the table, the
 6 corresponding strengths in grade are determined by mathematical
 7 interpolation between the respective numbers of the two strengths. If
 8 it is determined that the number serving on active duty is greater or
 9 lesser than the figures listed in the first column of the table, the Secre-
 10 tary concerned shall fix the corresponding strengths in grade at the
 11 same proportion as reflected in the nearest limit shown in the table.

12 "(b) The Secretary of the military department concerned, when-
 13 ever the needs of the service require but at least once each fiscal year,
 14 shall compute the number of officers authorized under subsection (a)
 15 to serve on active duty in each grade above captain (Army, Air Force,
 16 or Marine Corps) or lieutenant (Navy).

17 "(c) Whenever the total number of officers on active duty, exclusive
 18 of officers specified in subsection (d), is reduced by more than 7 per-
 19 cent in any one-year period, the Secretary concerned may delay by not
 20 more than one year the next computation required by subsection (b).

21 "(d) Officers in the following categories shall be excluded in com-
 22 puting and determining strengths under this section:

23 "(1) Reserve commissioned officers—

24 "(A) on active duty for training;

1 “(B) on active duty under section 265, 678, 3033, 3496,
2 5251, 5252, 8033, or 8496 of this title, or section 708 of title 32;

3 “(C) on active duty to pursue special work; or

4 “(D) ordered to active duty (other than for training)—

5 “(i) under section 672(a), 673, or 674 of this title; or

6 “(ii) in other emergency situations.

7 However, reserve commissioned officers covered by clause (D)
8 may be excluded in determining strengths for the armed force
9 concerned for not more than the duration of the war or emer-
10 gency for which those officers were ordered to active duty, and
11 for six months thereafter.

12 “(2) Officers serving in grades above colonel or captain
13 (Navy).

14 “(3) Medical officers.

15 “(4) Dental officers.

16 “(5) Warrant officers.

17 “(6) Retired officers on active duty.

18 “(7) Officers on active duty for the administration of the Se-
19 lective Service System under section 10(b)(2) of the Military
20 Selective Service Act, as amended (50 U.S.C. App. 460(b)(2)).

21 “(e) A commissioned officer may not suffer a reduction in grade, pay,
22 or allowances because of a reduction in the number of commissioned
23 officers computed under subsection (a) that is authorized by this sec-
24 tion for his grade.

25 “(f) The authorized number for a grade computed under this section
26 is temporarily increased, during the period between one computation
27 and the next succeeding computation, by—

28 “(1) the number of officers originally appointed in that grade
29 during that period; and

30 “(2) the number of officers of that grade for whom a vacancy
31 exists in the higher grade but whose promotion has been delayed
32 for any reason.

33 “(g) In time of war, or of national emergency declared by Congress
34 or the President after January 1, 1977, the President may suspend
35 the operation of any provision of this section.

36 “§ 453. **Commissioned officers on active duty in grades below**
37 **brigadier general or commodore admiral; prescribed**
38 **number; vacancies**

39 “(a) The Secretary of the military department concerned shall,
40 whenever the needs of the service require, prescribe the number of

1 commissioned officers, exclusive of those specified in section 452(d)
 2 of this title, that shall be maintained in each of the grades of major
 3 through colonel or lieutenant commander through captain (Navy).
 4 The number prescribed for each grade may be the number authorized
 5 to serve in that grade as computed under section 452 of this title or a
 6 lesser number. If the number prescribed for a grade is less than the
 7 number authorized for that grade, the reduction may be applied as an
 8 increase to the authorized number in a lower grade.

9 “(b) Except as provided in subsection (c), the actual number of
 10 officers in a grade, exclusive of those specified in section 452(d) of
 11 this title, may not exceed the prescribed number. Vacancies occur
 12 whenever, and to the extent that, the actual number falls below the
 13 prescribed number.

14 “(c) The prescribed number for a grade is temporarily increased
 15 during the period between one computation and the next succeeding
 16 computation by—

17 “(1) the number of officers originally appointed in that grade
 18 during that period; and

19 “(2) the number of officers of that grade for whom a vacancy
 20 exists in the higher grade but whose promotion has been delayed
 21 for any reason.

22 “(d) At the time of making the computations required by this sec-
 23 tion, or whenever the needs of the service require, the Secretary con-
 24 cerned shall also determine the number of officers that will be required
 25 to meet the needs of the service in the grades of second lieutenant, first
 26 lieutenant, or captain (Army, Air Force, or Marine Corps) or ensign,
 27 lieutenant (junior grade), or lieutenant (Navy).”.

28 (3) Amending chapter 33 by inserting the following new sec-
 29 tions and inserting corresponding new items in the chapter
 30 analysis:

31 **“§ 542. Commissioned officers: original appointment; how made**

32 “(a) Except as otherwise provided in this title, original appoint-
 33 ments in commissioned grades in the Regular Army, Regular Navy,
 34 Regular Air Force, or Regular Marine Corps shall be made by the
 35 President, by and with the advice and consent of the Senate.

36 “(b) Original appointments in commissioned grades in the Regular
 37 Army, Regular Navy, Regular Air Force, or Regular Marine Corps,
 38 may not be made under this section, or under section 543 or 544 of this
 39 title in warrant officer grades or in grades above colonel or captain
 40 (Navy).

1 **"§ 543. Commissioned officers: original appointment; qualifica-**
 2 **tions**

3 "(a) Under regulations prescribed by the Secretary of the military
 4 department concerned, original appointments in commissioned grades
 5 in the Regular Army, Regular Navy, Regular Air Force, or Regular
 6 Marine Corps may be made from persons who—

7 "(1) are citizens of the United States;

8 "(2) are at least 21 years of age;

9 "(3) are able to complete 20 years of active commissioned serv-
 10 ice before their fifty-fifth birthday;

11 "(4) are of good moral character;

12 "(5) are physically qualified for active service; and

13 "(6) have such other qualifications as the Secretary concerned
 14 may, by regulation, prescribe.

15 "(b) Original appointments may not be made under this section
 16 as medical or dental officers or those officers designated for limited
 17 duty.

18 "(c) Original appointments of chaplains are not subject to subsec-
 19 tion (a) (3).

20 **"§ 544. Commissioned officers: original appointment; service**
 21 **credit**

22 "(a) For the purposes of determining grade and position on the
 23 active-duty list under section 620 of this title, a person originally ap-
 24 pointed in a commissioned grade, other than a warrant officer, in
 25 the Regular Army, Regular Navy, Regular Air Force, or Regular
 26 Marine Corps, shall be credited, except as provided in section 620 (d)
 27 of this title, at the time of his appointment with the active commis-
 28 sioned service, other than service as a commissioned warrant officer,
 29 in any armed force that he performed after becoming 18 years of age
 30 and before his appointment.

31 "(b) Under regulations prescribed by the Secretary of Defense, the
 32 Secretary of the military department concerned shall, in addition to
 33 the credit set forth in subsection (a), credit an officer with the amount
 34 of service, if applicable, for the following purposes and under the
 35 following conditions—

36 "(1) one year of constructive service for each year of qualify-
 37 ing advanced education beyond the normal baccalaureate level,
 38 limited to those officer categories requiring advanced education as
 39 a prerequisite for appointment as a commissioned officer (except
 40 as provided in clause (5), in determining the years of service

1 under this clause, the Secretary concerned shall grant credit for
 2 only the number of years normally required to receive the ad-
 3 vanced education or degree);

4 “(2) credit for advanced education in a health profession
 5 (other than medicine and dentistry) beyond the baccalaureate
 6 degree level which exceeds the basic educational criteria for ap-
 7 pointment as an officer when such advanced education will be
 8 directly used by the armed force concerned;

9 “(3) additional credit of not more than one year for internship
 10 or equivalent graduate medical, dental, or other formal profes-
 11 sional specialty training required by the armed forces and not
 12 more than one year of additional credit for each additional year
 13 of such graduate level training creditable towards certification in
 14 a specialty required by the armed forces;

15 “(4) additional credit, in unusual cases, based on a mem-
 16 ber’s special experience in a particular field;

17 “(5) additional credit of one year for advanced education in
 18 a health profession if the number of years of baccalaureate educa-
 19 tion completed by 75 percent or more of the students entering the
 20 discipline concerned exceeds, by one or more, the minimum num-
 21 ber of years of preprofessional education required by a majority
 22 of institutions which award degrees for that particular health
 23 profession. The percent of such persons will be computed on an
 24 annual basis for each discipline from the data for the year in
 25 which a person was admitted to a professional school. However, a
 26 person may not receive additional credit under this clause if the
 27 amount of his baccalaureate education does not exceed, by one or
 28 more, the minimum number of years of preprofessional education
 29 required by a majority of institutions which award degrees for
 30 that particular health profession, determined on the basis pre-
 31 scribed in the preceding sentence.

32 However, except as authorized by the Secretary concerned in individ-
 33 ual cases, the amount of service credit granted under this subsection
 34 shall not exceed that amount required for original appointment in the
 35 grade of major in the Army and Air Force and in the grade of lieu-
 36 tenant commander in the Navy.

37 “(c) The amount of constructive service prescribed under subsection
 38 (b) shall be used for determining—

39 “(1) entry grade;

40 “(2) entry position on an active-duty list;

1 “(3) seniority in grade; and

2 “(4) time in grade for promotion eligibility.

3 “(d) The amount of service credited under subsection (b) may not
4 be used to compute the years of service for—

5 “(1) active-duty pay and allowances;

6 “(2) voluntary retirement;

7 “(3) involuntary retirement;

8 “(4) involuntary separation;

9 “(5) retired pay or transition payments; or

10 “(6) involuntary separation readjustment compensation.

11 “(e) The amount of service creditable under subsection (b) may not
12 be granted for any education, training, experience, or qualifications
13 attained while serving on active duty, except for constructive service
14 credit for board certification of medical and dental officers.

15 “(f) A cadet or midshipman at the United States Military Academy,
16 the United States Naval Academy, or the United States Air Force
17 Academy who, upon graduation, is originally appointed in the Regular
18 Army, Regular Navy, Regular Air Force, or Regular Marine Corps
19 as a second lieutenant or ensign, is not entitled to any service credit
20 under subsection (a) or (b), for service performed, or education,
21 training, or experience obtained, prior to graduation.”.

22 (4) Amending chapter 33 by amending section 564(a) (3) by
23 striking out “severance pay computed under section 1167” and
24 inserting in place thereof “, if eligible therefor, separation pay
25 under section 1173a”.

26 (5) Inserting the following new items in the chapter analysis
27 and the chapter analysis of part II:

“35A. Temporary Appointments----- 605

“36. Promotion, Separation, Retirement of Officers on the Active-Duty
List: Second Lieutenants or Ensigns through Colonels or Captains
(Navy) ----- 611”.

28 (6) Inserting the following new chapters in part II:

29 “Chapter 35A.—TEMPORARY APPOINTMENTS

“Sec.

“605. Temporary appointments in time of war or national emergency.

30 **“§ 605. Temporary appointments in time of war or national emer-**
31 **gency**

32 “(a) In time of war, or of national emergency declared by Congress
33 or the President after January 1, 1977, the President may appoint any
34 qualified person who does not hold an appointment in the Army, Navy,
35 Air Force, or Marine Corps, in a commissioned grade below brigadier
36 general or commodore admiral, except a warrant officer grade, as a

1 temporary commissioned officer in one of those grades in the Army,
2 Navy, Air Force, or Marine Corps.

3 “(b) An officer appointed under this section is entitled to the serv-
4 ice credit prescribed in section 544 of this title.

5 “(c) An officer appointed under this section may be ordered to active
6 duty for such period as the President prescribes.

7 “(d) Appointments under this section shall be made by the Presi-
8 dent alone.

9 “(e) Appointments under this section may be vacated by the Presi-
10 dent at any time.

11 “(f) Appointments under this section do not change the perma-
12 nent status of members of the armed forces so appointed. A person
13 who is appointed under this section may not suffer any reduction in
14 the pay and allowances to which he was entitled because of his perma-
15 nent status at the time of his temporary appointment under this
16 section.

17 “(g) Temporary appointments made under this section shall, if not
18 sooner terminated, terminate not later than—

19 “(1) six months after the end of the war or national emergency ;
20 or

21 “(2) the date the appointee is released from active duty ;
22 whichever is earlier.

23 **“Chapter 36.—PROMOTION, SEPARATION, RETIREMENT**
24 **OF OFFICERS ON THE ACTIVE-DUTY LIST: SECOND**
25 **LIEUTENANTS OR ENSIGNS THROUGH COLONELS OR**
26 **CAPTAINS (NAVY)**

“Sec.

“611. Commissioned officers : selection boards ; promotion.

“612. Commissioned officers : selection boards ; composition of boards.

“613. Commissioned officers : selection boards ; notice of convening ; communica-
tions with board.

“614. Commissioned officers : selection boards ; oath of members.

“615. Commissioned officers : selection boards ; information furnished boards.

“616. Commissioned officers : selection boards ; recommendations for promotion.

“617. Commissioned officers : selection boards ; reports.

“618. Commissioned officers : selection boards ; submission of reports.

“619. Commissioned officers : eligibility for consideration for promotion.

“620. Commissioned officers : active-duty lists.

“621. Commissioned officers : competitive categories for promotion.

“622. Commissioned officers : promotion zones.

“623. Commissioned officers : numbers to be selected for promotion.

“624. Commissioned officers : promotions.

“625. Commissioned officers : promotions ; acceptance ; oath of office.

“626. Commissioned officers : failure of selection.

“627. Commissioned officers : special selection boards.

“628. Commissioned officers : removal from selection list.

“629. Regular commissioned officers : less than five years' service or failure of
promotion to first lieutenant or lieutenant (junior grade) ; discharge.

"Sec.

"630. Regular first lieutenants and captains (Army, Air Force, Marine Corps) and lieutenants (junior grade) and lieutenants (Navy): effect of failure of selection for promotion.

"631. Regular majors and lieutenant commanders: effect of failure of selection for promotion.

"632. Regular lieutenant colonels and commanders: retirement for failure of selection for promotion.

"633. Regular colonels and captains (Navy): retirement for years of service.

"634. Regular commissioned officers: continuation on active duty.

"635. Authority to convene selection boards to recommend certain officers for continuation on active duty.

"636. Continuation on active duty for disciplinary action.

"637. Computation of creditable service for involuntary retirement and other purposes.

"638. Deferment of retirement or separation.

"639. Promotion, separation, and involuntary retirement of medical and dental officers.

"640. Officers performing professional functions: defined; discharge upon loss of qualifications.

"641. Exclusion of certain officers.

"642. Suspension: preceding sections.

"643. Commissioned officers: entitlement to separation pay or retired pay.

1 **"§ 611. Commissioned officers: selection boards; promotion**

2 "At least once a year and at such other times as the needs of the serv-
3 ice require, the Secretary of the military department concerned shall
4 convene selection boards to recommend for promotion to the next
5 higher grade officers on the active-duty list in each grade from first
6 lieutenant through lieutenant colonel in the Army, Air Force, or Ma-
7 rine Corps, and from lieutenant (junior grade) through commander
8 in the Navy. The Secretary concerned may convene separate selection
9 boards for each competitive category. However, the Secretary con-
10 cerned is not required to convene a board to recommend officers in a
11 competitive category for promotion to a grade when no officers are
12 eligible for promotion in the promotion zone for that grade and com-
13 petitive category.

14 **"§ 612. Commissioned officers: selection boards; composition of**
15 **boards**

16 "(a) A board convened under section 611 of this title shall consist
17 of five or more officers serving in a grade of major, or above, or lieuten-
18 ant commander, or above.

19 "(b) A board convened under section 611 of this title shall con-
20 sist of officers who are serving in a grade at least equal to the grade
21 to which the board may recommend officers for promotion.

22 "(c) Boards convened under section 611 of this title shall con-
23 sist of officers on the active-duty list of the same armed force as the
24 officers under consideration. However, if qualified officers on the active-
25 duty list are not available in sufficient numbers to comprise a board,

1 the Secretary of the military department concerned shall complete
 2 the membership by appointing as members of the board retired officers
 3 of the same service who have the prescribed qualifications.

4 “(d) When reserve officers of an armed force are eligible for con-
 5 sideration by a board convened under section 611 of this title, the
 6 board shall, when possible, include an appropriate number of reserve
 7 officers of that armed force.

8 “(e) No officer may be a member of two successive boards convened
 9 under section 611 of this title for the consideration of officers of the
 10 same competitive category and grade for promotion.

11 “(f) A board convened to consider officers shall, consistent with
 12 subsections (a)-(e), consist of such officers as may be determined by
 13 the Secretary concerned. A board considering officers of a competitive
 14 category for promotion shall, when possible, include at least one
 15 officer of that competitive category among its members except as
 16 provided in sections 5701, 5702, and 5703 of this title.

17 **“§ 613. Commissioned officers: selection boards; notice of con-**
 18 **vening; communications with board**

19 “(a) Before a board is convened under section 611 of this title, notice
 20 of the convening date and the promotion zone shall be promulgated
 21 to the officers eligible for consideration or to the armed force con-
 22 cerned at large.

23 “(b) Each officer in or above a promotion zone being considered by
 24 a selection board convened under section 611 of this title may send a
 25 communication through official channels to the board, to arrive not
 26 later than the date the board convenes, calling attention to any matter
 27 concerning himself that he considers important to his case. However, if
 28 notice of the convening date of the board has not been promulgated
 29 to the officers eligible for consideration or to the armed force concerned
 30 at large, at least 10 days before the convening date, each eligible officer
 31 in or above the promotion zone may send a communication concerning
 32 his record to the board through official channels, to arrive not later
 33 than 10 days after the date the board convenes. A communication sent
 34 under this section may not criticize any other officer or reflect upon
 35 the character, conduct, or motive of any other officer.

36 **“§ 614. Commissioned officers: selection boards; oath of**
 37 **members**

38 “Each member of a board convened under this chapter shall swear
 39 that he will, without prejudice or partiality, and having in view both

1 the special fitness of officers and the efficiency of his armed force, per-
2 form the duties imposed upon him.

3 **“§ 615. Commissioned officers: selection boards; information**
4 **furnished boards**

5 “The Secretary of the military department concerned shall furnish
6 the appropriate board convened under section 611 of this title with—

7 “(1) the number of officers in each competitive category under
8 consideration that the board shall, subject to section 616 of this
9 title, recommend for promotion to the next higher grade;

10 “(2) the names of all officers to be considered by the board for
11 promotion to the next higher grade to which the board will
12 recommend officers for promotion with identification of those
13 officers who are in the promotion zone;

14 “(3) the pertinent records of all officers whose names are fur-
15 nished to the board; and

16 “(4) such guidance, which shall be consistent with this chapter,
17 as may be necessary to enable the board to properly fulfill its
18 functions.

19 **“§ 616. Commissioned officers: selection boards; recommenda-**
20 **tions for promotion**

21 “(a) A board convened under section 611 of this title shall recom-
22 mend only those eligible officers whom the board considers best quali-
23 fied for promotion.

24 “(b) From among those officers of the Army, Navy, Air Force, or
25 Marine Corps, who are to be considered for promotion by a selection
26 board in accordance with section 3297 (f), 5706, or 8297 (f) of this title,
27 and those whose position on the active-duty list is below the junior of-
28 ficer in the appropriate promotion zone in any grade below colonel or
29 captain (Navy), a board convened under section 611 of this title may,
30 unless the Secretary of the military department concerned prescribes
31 a lesser number, recommend as best qualified for promotion in each
32 competitive category a number of officers that does not exceed 15 per-
33 cent of the total number of officers in each competitive category that
34 the board is authorized to recommend for promotion to the grade con-
35 cerned, unless that number is less than one, in which case it may rec-
36 commend one such officer. Selection under this subsection shall not in-
37 crease the total number authorized to be recommended for promotion
38 under section 615 of this title.

39 “(c) No officer may be recommended for promotion unless—

1 “(1) the officer receives the recommendation of at least a ma-
2 jority of the members of a board; and

3 “(2) a majority of the members of the board finds that the of-
4 ficer is also fully qualified for promotion.

5 “(d) If the board finds that the number of officers who are best
6 qualified for promotion and who are also fully qualified for promotion
7 is less than the total number authorized to be recommended for pro-
8 motion under section 615 of this title, the board shall recommend the
9 lesser number.

10 **“§ 617. Commissioned officers: selection boards; reports**

11 “(a) Each board convened under section 611 of this title shall sub-
12 mit a report in writing, signed by all the members thereof, containing
13 the names of officers recommended for promotion, and shall certify in
14 its report that the board has carefully considered the records of each
15 officer whose name was furnished to it under section 615 of this title.

16 “(b) A board convened under section 611 of this title shall certify
17 that, in the opinion of at least a majority of the members, the officers
18 recommended for promotion are best qualified for promotion.

19 “(c) A board convened under section 611 of this title may be re-
20 quired to report the name of each officer from among those officers
21 whose record, in the opinion of the board, indicates that he should be
22 required to show cause for his retention on active duty under chapter
23 60 of this title.

24 “(d) As required by section 6384 of this title, each board convened
25 under this chapter to recommend officers of the Navy or Marine Corps
26 for promotion shall report, from among those officers eligible for con-
27 sideration, the name of each Navy or Marine Corps officer with less
28 than 20 years of service whose record, in the opinion of the board,
29 indicates—

30 “(1) his unsatisfactory performance of duty in his present
31 grade; and

32 “(2) that he would not satisfactorily perform the duties of a
33 higher grade.

34 **“§ 618. Commissioned officers: selection boards; submission of**
35 **reports**

36 “(a) A board convened under section 611 of this title shall submit
37 its report to the Secretary of the military department concerned who
38 shall return the report for proceedings in revision and resubmission
39 if the board has acted contrary to law.

1 “(b) After his final review, the Secretary concerned shall submit
2 the report of the board, with his recommendations for action thereon,
3 to the Secretary of Defense for transmittal to the President for ap-
4 proval, modification, or disapproval.

5 “(c) The name of an officer may be removed from the report of the
6 board only by the President.

7 “(d) Upon approval by the President, the names of officers recom-
8 mended for promotion by a board convened under section 611 of this
9 title shall be promptly disseminated to the armed force concerned.

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

13 **“§ 619. Commissioned officers: eligibility for consideration for**
14 **promotion**

15 “(a) An officer on the active-duty list of the Army, Navy, Air Force,
16 or Marine Corps (other than a medical or dental officer) may not be
17 considered for promotion to the next higher grade by a selection board
18 convened under section 611 of this title unless he will have completed
19 the following minimum period of service in the grade in which he is
20 serving by the end of the period which is the basis for determining
21 the number of officers which the board is authorized to recommend for
22 promotion:

23 “(1) One year in the grade of first lieutenant or lieutenant
24 (junior grade).

25 “(2) Three years in the grade of captain (Army, Air Force, or
26 Marine Corps) or lieutenant (Navy).

27 “(3) Three years in the grade of major or lieutenant com-
28 mander.

29 “(4) Three years in the grade of lieutenant colonel or com-
30 mander.

31 However, the Secretary of the military department concerned may,
32 when the needs of the service so require, increase the minimum amount
33 of service in grade for eligibility for consideration for promotion to
34 the next higher grade.

35 “(b) For the purpose of this section, service in a grade is computed
36 from an officer's date of rank except that an officer whose position on
37 the active-duty list has been adjusted for any reason while serving in
38 his current grade will be considered to have the same service in a
39 grade as the officer next junior on the active-duty list whose position
40 on the active-duty list has not been adjusted in that grade. Service in a

1 grade under a temporary appointment, which by its own terms is lim-
 2 ited in duration, shall be excluded from computation under this
 3 subsection.

4 “(c) In addition to the time-in-grade requirements set out in sub-
 5 section (a), no officer may become eligible for consideration for pro-
 6 motion until all officers of his grade in his competitive category on the
 7 active-duty list senior to him are so eligible.

8 “(d) Each officer having once failed of selection for promotion to
 9 the next higher grade remains eligible for selection for promotion to
 10 that grade as long as he continues on active duty in other than a retired
 11 status and is not promoted to that grade.

12 “(e) A selection board convened under section 611 of this title may
 13 not consider for promotion to the next higher grade any officer whose
 14 name is on the promotion list for that grade as a result of his selec-
 15 tion to that grade by an earlier board convened under that section.

16 **“§ 620. Commissioned officers: active-duty lists**

17 “(a) The Secretary of the military department concerned shall
 18 maintain a single active-duty list of officers of the Army, Navy, Air
 19 Force, or Marine Corps, as the case may be, on active duty in the
 20 grades of second lieutenant or ensign, and above.

21 “(b) Officers shall be carried on active-duty lists in the order
 22 of seniority of the grade in which they are serving on active duty.
 23 Officers serving in the same grade shall be carried in the order of
 24 their seniority in that grade.

25 “(c) Under regulations prescribed by the Secretary concerned,
 26 the grade and position on the active-duty list of an officer shall be
 27 determined as follows:

28 “(1) Except as provided in section 2106(b) of this title, and
 29 except as otherwise provided in this section, an officer who has no
 30 prior commissioned service shall be placed on the active-duty list
 31 in the grade of second lieutenant or ensign in a position on the
 32 list immediately below the junior officer on that list, or if he has
 33 received constructive service credit under section 544(b) of this
 34 title or any other provision of law, shall be placed immediately
 35 below the junior due-course officer whose commissioned service
 36 is the same or next longer in comparison to the service credit of
 37 the officer whose position on the list is being determined.

38 “(2) An officer who is placed on the active-duty list as a reserve
 39 officer or as a regular officer shall be placed on the list in the same

1 grade and in the position he would have occupied had he been on
2 active duty as a due-course officer if—

3 “(A) the period between his commissioning and place-
4 ment on the active-duty list was—

5 “(i) less than one year; or

6 “(ii) one year or more, during which time he partici-
7 pated in an active status as a reserve commissioned of-
8 ficer to the extent required to maintain retirement eligi-
9 bility under section 1331 of this title;

10 “(B) he has been on continuous active duty since he was
11 commissioned; or

12 “(C) the latest period during which he has not been on
13 active duty since he was commissioned was—

14 “(i) less than one year; or

15 “(ii) one year or more, during which time he par-
16 ticipated in an active status as a reserve commissioned
17 officer to the extent required to maintain retirement
18 eligibility under section 1331 of this title.

19 “(3) An officer not covered by clause (2) who is placed on
20 the active-duty list as a reserve officer or as a regular officer shall,
21 if he is an officer who—

22 “(A) has not been on continuous active duty since he was
23 commissioned; and

24 “(B) during those periods when he was not on active duty,
25 was in an active status in the Reserves, but failed to par-
26 ticipate to the extent required to maintain retirement eligi-
27 bility under section 1331 of this title;

28 be placed on the list no higher than the grade and position he
29 would have occupied had he been on active duty as a due-course
30 officer, but no lower than the grade and position of the junior
31 due-course officer who has the same or next longer period of active
32 commissioned service.

33 “(4) An officer not covered by clause (2) who is placed on the
34 active-duty list as a reserve officer or as a regular officer shall,
35 if he is an officer who—

36 “(A) has not been on continuous active duty since he was
37 commissioned; and

38 “(B) during those periods when he was not on active duty,
39 terminated his active status, or was separated from the
40 service;

be placed on the list lower than the position he would have occupied had he been on active duty as a due-course officer but no lower than the grade and position of the junior due-course officer who has the same or next longer period of active commissioned service.

“(5) When the position of an officer on the active-duty list would be the same as that of any other officer, his position on the list relative to the other officer shall be determined under regulations prescribed by the Secretary concerned.

“(d) The Secretary of Defense shall prescribe regulations to enable the Secretary of the military department concerned to credit prior commissioned service to determine the grade and position which shall be given to officers who are placed on the active-duty list, or originally appointed as regular officers and placed on that list in the following competitive categories:

“(1) The Army—

“(A) Veterinary Corps;

“(B) Medical Service Corps;

“(C) Nurse Corps;

“(D) Medical Specialist Corps;

“(E) Medical Corps; or

“(F) Dental Corps.

“(2) The Navy—

“(A) Medical Service Corps;

“(B) Medical Corps;

“(C) Dental Corps; or

“(D) Nurse Corps.

“(3) The Air Force—

“(A) officers designated as medical service officers;

“(B) officers designated as biomedical sciences officers;

“(C) officers designated as nurses;

“(D) officers designated as veterinary officers;

“(E) officers designated as medical officers; or

“(F) officers designated as dental officers.

“(e) Each officer serving in a temporary grade, or a grade held by reason of his office, above colonel or captain (Navy) has, upon the termination of his appointment in that grade, the grade and position on the active-duty list that he would have held if he had not received that appointment. This subsection does not apply to an officer appointed under section 3066, 5231, 5232, or 8066 of this title.

1 “(f) The Secretary concerned may correct any erroneous position
2 on an active-duty list that was caused by administrative error. Any
3 officer—

4 “(1) whose position on the active-duty list is changed;

5 “(2) whose grade is changed under this section; or

6 “(3) who is placed on the active-duty list among officers with
7 dates of rank differing from his own;

8 may be reappointed in the same, a lower, or a higher grade to reflect
9 his position, and his date of rank may be changed to conform to his
10 new position on the active-duty list. The authorized number of officers
11 in any grade may be temporarily exceeded, by the number of officers
12 whose grades were changed under this section, until the next succeed-
13 ing computation.

14 **“§ 621. Commissioned officers: competitive categories for**
15 **promotion**

16 “(a) Each commissioned officer whose name appears on the active-
17 duty list of the Army shall be carried in one of the following competi-
18 tive categories of officers with whom he will compete for promotion:

19 “(1) Army line.

20 “(2) Chaplains.

21 “(3) Veterinary Corps.

22 “(4) Medical Service Corps.

23 “(5) Nurse Corps.

24 “(6) Medical Specialist Corps.

25 “(7) Medical Corps.

26 “(8) Dental Corps.

27 “(b) Each commissioned officer whose name appears on the active-
28 duty list of the Navy shall be carried in one of the following competi-
29 tive categories of officers with whom he will compete for promotion:

30 “(1) Officers not restricted in the performance of duty in the
31 line.

32 “(2) Officers designated for each of the categories authorized
33 by section 5587 (c) of this title.

34 “(3) Officers in one of the staff corps.

35 “(4) Officers designated for limited duty in the line.

36 “(5) Officers designated for limited duty in one of the staff
37 corps.

38 Officers listed in clauses (2), (3), and (5) shall compete for promo-
39 tion only among officers within one of the staff corps established for

1 the Navy under this title or categories as set forth in section 5587(c)
2 of this title.

3 “(c) Each commissioned officer whose name appears on the active-
4 duty list of the Air Force shall be carried in one of the following com-
5 petitive categories of officers with whom he will compete for pro-
6 motion:

7 “(1) Line of the Air Force.

8 “(2) Officers designated as chaplains.

9 “(3) Officers designated as medical service officers.

10 “(4) Officers designated as biomedical sciences officers.

11 “(5) Officers designated as nurses.

12 “(6) Officers designated as veterinary officers.

13 “(7) Officers designated as medical officers.

14 “(8) Officers designated as dental officers.

15 “(d) Each commissioned officer whose name appears on the active-
16 duty list of the Marine Corps shall be carried in one of the following
17 competitive categories of officers with whom he will compete for
18 promotion:

19 “(1) Officers not restricted in the performance of duty.

20 “(2) Officers designated for limited duty.

21 “(e) Additional competitive categories may be established under
22 regulations prescribed by the Secretary of the military department
23 concerned for officers performing other functions requiring special
24 training or experience.

25 **“§ 622. Commissioned officers: promotion zones**

26 “(a) Before he convenes a selection board to consider officers for
27 promotion to any grade above first lieutenant and below brigadier
28 general, or above lieutenant (junior grade) and below commodore
29 admiral, the Secretary of the military department concerned shall
30 establish a promotion zone.

31 “(b) The promotion zone shall consist of the designated junior
32 officer in the zone and those officers who have not previously failed
33 of selection who are senior to him.

34 “(c) The Secretary concerned shall determine the number of officers
35 in each promotion zone from among officers eligible for promotion on
36 the basis of a consideration of—

37 “(1) the number of vacancies estimated for the next higher
38 grade in each of the next five years; and

39 “(2) the number of officers who will be placed in the promotion

1 zone in those years to assure to individuals in succeeding years
2 equality of opportunity for promotion.

3 **"§ 623. Commissioned officers: numbers to be selected for**
4 **promotion**

5 "(a) Before convening a board to select officers for promotion to any
6 grade below brigadier general or commodore admiral, the Secretary
7 of the military department concerned shall determine the total num-
8 ber of officers who may be selected for promotion to the grade. The
9 number of officers who may be promoted to the higher grade is equal
10 to the number of vacancies in the grade plus the number of additional
11 vacancies estimated for the promotion period minus the number of
12 officers on the selection list for promotion for the grade.

13 "(b) Having determined the total number of officers to be selected
14 for promotion to any grade, the Secretary concerned shall apportion
15 that number among the competitive categories of the grade from which
16 such officers are to be selected. This apportionment shall provide for
17 equality of opportunity of selection among the competitive categories
18 from which selections are made, except that the Secretary concerned
19 may adjust the number of officers to be selected in a competitive cate-
20 gory on the basis of a consideration of an estimate of service needs
21 and the number of anticipated losses and officers to be placed in the
22 promotion zone during the next five years in each competitive cate-
23 gory.

24 **"§ 624. Commissioned officers: promotions**

25 "(a) An officer serving on active duty in the grade of second lieu-
26 tenant or ensign may be promoted to the next higher grade subject to
27 regulations prescribed by the Secretary of the military department
28 concerned. An officer serving in the grade of first lieutenant or lieu-
29 tenant (junior grade), whose name is on an approved list of officers
30 recommended for promotion by a selection board convened under sec-
31 tion 611 of this title, may be promoted subject to such regulations as the
32 Secretary concerned may prescribe.

33 "(b) When the reports of all boards convened under section 611 of
34 this title to select officers of all competitive categories from which selec-
35 tions are authorized for promotion to any grade of an armed force,
36 below the grade of brigadier general or commodore admiral, have been
37 approved by the President, the Secretary concerned shall place the
38 names of all officers selected and approved for promotion on a single
39 list in the order of their seniority on the active-duty list. Except in the

1 case of promotions governed by subsection (a) and except as provided
 2 in subsection (e), officers shall be promoted to the next higher grade
 3 in accordance with subsection (c) as vacancies occur in the author-
 4 ized active-duty strength of that grade. Promotions shall be made in
 5 the order that officers' names appear on the promotion list, and after
 6 officers previously selected have been promoted.

7 “(c) An officer appointed under subsection (a) shall have an effec-
 8 tive date of promotion and date of rank in the grade to which pro-
 9 moted from the date the appointment is made. An officer appointed
 10 under subsection (b) shall have an effective date of promotion and date
 11 of rank in the grade to which promoted from the first day of the month
 12 following the date of occurrence of the vacancy he was appointed to fill.

13 “(d) Appointments of officers under this section shall be made by
 14 the President, by and with the advice and consent of the Senate,
 15 except that appointments, other than an original appointment as a
 16 regular officer, in the grade of first lieutenant or lieutenant (junior
 17 grade) shall be made by the President alone. An appointment of a
 18 reserve officer under this section shall be retained after release from
 19 active duty for the purpose of promotion under any other chapter of
 20 this title.

21 “(e) An appointment under this section may be delayed under
 22 the following circumstances:

23 “(1) When—

24 “(A) proceedings of a court-martial, a board of officers as
 25 constituted under chapter 60 of this title, or an investigation
 26 incident to such court-martial or board are pending against
 27 an officer; or

28 “(B) sworn charges are received by an officer exercising
 29 general court-martial jurisdiction over an officer;

30 the appointment of an officer who has been selected for promotion
 31 may be delayed by the Secretary concerned until completion of
 32 the proceedings or investigation. If, upon completion of the pro-
 33 ceedings or investigation, or upon dismissal of the charges against
 34 him, the officer is retained on the list of officers to be appointed, his
 35 date of rank, pay, and allowances, when appointed, shall be the
 36 same as he would have had if no delay had intervened.

37 “(2) In cases where the Secretary concerned finds that there
 38 is good cause to believe that an officer is mentally, physically,
 39 morally, or professionally unqualified to perform the duties of

1 the grade for which he was selected. If the Secretary concerned
 2 subsequently determines that the officer is qualified for promotion,
 3 the officer's date of rank, pay, and allowances shall be the same
 4 as if no delay intervened.

5 In no case shall the date of rank, pay, and allowances of an officer
 6 whose appointment is delayed be computed from a date earlier than
 7 the date which would have been employed for such computation in
 8 accordance with section 908 of title 37 had the appointment not been
 9 delayed. In any case in which delay of the appointment of an officer
 10 is contemplated, such officer shall be given written notice of the
 11 grounds for the delay, and he shall be afforded an opportunity to
 12 make a written statement in response. That statement, if made,
 13 shall be considered by the Secretary concerned in determining
 14 whether to institute a delay. An appointment may not be delayed for
 15 more than six months after the date the officer would otherwise have
 16 been appointed, unless the Secretary concerned determines delay to
 17 be necessary for the good of the service for a further period which he
 18 shall specify. However, an officer's promotion may not be delayed
 19 beyond 18 months from the time the officer would otherwise have been
 20 appointed, unless the basis for the delay is the result of—

21 “(1) a pending criminal proceeding in a State or Federal
 22 court; or

23 “(2) final action not having been taken by a board or
 24 court-martial due to a delay caused by a proceeding described
 25 in clause (1).

26 **“§ 625. Commissioned officers: promotions; acceptance; oath of**
 27 **office**

28 “(a) An officer who receives an appointment under section 624
 29 of this title is considered to have accepted his appointment on its
 30 effective date, unless he expressly declines the appointment.

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

34 **“§ 626. Commissioned officers: failure of selection**

35 “An officer who is in or above the promotion zone established for his
 36 grade under section 622 of this title, and is considered but not selected
 37 for promotion, shall be considered to have failed of selection.

38 **“§ 627. Commissioned officers: special selection boards**

39 “(a) The Secretary of the military department concerned may con-
 40 vene a special selection board composed in accordance with section 612

1 of this title to determine whether an officer who is in, or above, the
 2 promotion zone established for his grade under section 622 of this title,
 3 and otherwise eligible for promotion, should be recommended for pro-
 4 motion when the Secretary concerned determines that the officer was—

5 “(1) not considered by a selection board because of adminis-
 6 trative error; or

7 “(2) considered by a selection board, and not selected, when
 8 the board’s action was contrary to law or involved material error
 9 of fact, material administrative error, or when material new evi-
 10 dence has been discovered.

11 “(b) The special board convened under subsection (a) shall con-
 12 sider the record of an officer as his record, if corrected, would have
 13 appeared to the board that should have considered, or did consider
 14 him. That record shall be compared with the records of those officers
 15 who were, and who were not, selected by the board which should have
 16 considered, or did consider, the officer described in subsection (a).

17 “(c) In the case of an officer specified in subsection (a), if the report
 18 of a special board, as approved by the President, recommends the
 19 officer for promotion, and he is appointed to the higher grade, he is
 20 entitled to the same date of rank, pay, and allowances of that grade,
 21 and the same position on the active-duty list as he would have had if
 22 he had been selected by the board which should have considered, or
 23 did consider, him. If a special board does not recommend for promo-
 24 tion an officer who is referred to it for consideration under subsection
 25 (a) (1), that officer is considered as having failed of selection. If a
 26 special board does not recommend for promotion an officer who is
 27 referred to it for consideration under subsection (a) (2), that officer
 28 incurs no additional failure of selection.

29 **“§ 628. Commissioned officers: removal from selection list**

30 “(a) The President may remove the name of any officer from a list
 31 of selectees.

32 “(b) If the Senate does not consent to the appointment of an officer
 33 whose name is on a list of selectees, that officer’s name shall be removed
 34 from the list.

35 “(c) An officer whose name is removed from a list under subsection
 36 (a) or (b) continues to be eligible for consideration for promotion.
 37 If he is recommended for promotion by the next selection board and
 38 promoted, he is entitled to the same position on the active-duty list,
 39 date of rank in the grade, and the same pay and allowances upon pro-
 40 motion to which he would have been entitled if his name had not been

1 so removed. However, if the officer is not recommended for promotion
 2 by the next selection board or if his name is again removed under this
 3 section from the list of officers recommended for promotion by the next
 4 selection board, or if the Senate again does not consent to his appoint-
 5 ment, he is considered for all purposes as having twice failed of
 6 selection for promotion.

7 **"§ 629. Regular commissioned officers: less than five years' serv-**
 8 **ice or failure of promotion to first lieutenant or lieu-**
 9 **tenant (junior grade); discharge**

10 "The Secretary of the military department concerned, under regu-
 11 lations prescribed by him—

12 "(1) may discharge any regular officer on the active-duty list
 13 who has less than five years of active commissioned service; and

14 "(2) shall discharge a regular officer, except one who is covered
 15 by section 6383(e) of this title, serving on the active-duty list in
 16 the grade of second lieutenant or ensign who is found not qualified
 17 for promotion to the next higher grade.

18 **"§ 630. Regular first lieutenants and captains (Army, Air Force,**
 19 **Marine Corps) and lieutenants (junior grade) and lieu-**
 20 **tenants (Navy): effect of failure of selection for**
 21 **promotion**

22 "Except as provided in section 641 (c) of this title, each officer of the
 23 Regular Army, Regular Air Force, or Regular Marine Corps serving
 24 in the grade of first lieutenant or captain, or each officer of the Regular
 25 Navy serving in the grade of lieutenant (junior grade) or lieutenant,
 26 who has failed of selection for promotion to the next higher grade for
 27 the second time, and whose name is not on a recommended list for
 28 promotion shall—

29 "(1) be honorably discharged on the date requested by him
 30 and approved by the Secretary of the military department con-
 31 cerned, but not later than the first day of the seventh calendar
 32 month after the President approves the report of the last board
 33 that considered but did not recommend him for promotion;

34 "(2) if he is eligible for retirement under any provision of law,
 35 be retired under that law on the date requested by him and ap-
 36 proved by the Secretary concerned, but not later than the first day
 37 of the seventh month after the President approves the report of
 38 the last board that considered but did not recommend him for
 39 promotion; or

1 “(3) unless sooner retired or separated under another provision
2 of law, if he will be within two years of qualifying for retirement
3 under section 3911, 6323, or 8911 of this title, be retained on active
4 duty until he is qualified for retirement and then retired.

5 The discharge of an officer under clause (1) shall be considered an
6 involuntary separation under any other provision of law.

7 **“§ 631. Regular majors and lieutenant commanders (Navy):**
8 **effect of failure of selection for promotion**

9 “(a) Except as provided by section 641(c) of this title, each officer
10 of the Regular Army, Regular Navy, Regular Air Force, or Regular
11 Marine Corps serving in the grade of major or lieutenant commander
12 who has failed of selection for promotion to the grade of lieutenant
13 colonel or commander for the second time and whose name is not on a
14 recommended list for promotion shall—

15 “(1) be honorably discharged on the date requested by him and
16 approved by the Secretary of the military department concerned,
17 but not later than the first day of the seventh calendar month after
18 the President approves the report of the last board that considered
19 but did not recommend him for promotion ;

20 “(2) if he is eligible for retirement under any provision of law,
21 be retired under that law on the date requested by him and
22 approved by the Secretary of the military department concerned,
23 but not later than the first day of the seventh month after the
24 President approves the report of the last board that considered
25 but did not recommend him for promotion ; or

26 “(3) unless sooner retired or separated under another pro-
27 vision of law, if he will be within two years of qualifying for re-
28 tirement under section 3911, 6323, or 8911 of this title, be retained
29 on active duty until he is qualified for retirement and then
30 retired.

31 The discharge of an officer under clause (1) shall be considered an
32 involuntary separation under any other provision of law.

33 “(b) When the needs of the service require, the Secretary con-
34 cerned may convene selection boards to recommend officers in a com-
35 petitive category, except limited-duty officers of the Navy and Marine
36 Corps, for continuation on active duty. Notwithstanding subsec-
37 tion (a), each officer described in subsection (a) who has failed of
38 selection for promotion to the grade of lieutenant colonel or com-
39 mander for the second time may be continued on active duty if

1 selected for continuation in the approved report of a board con-
 2 vened under section 635 of this title. An officer who is selected for
 3 continuation but declines to continue on active duty shall be honorably
 4 discharged, or if he is eligible for retirement under any provision
 5 of law, be retired.

6 “(c) Each officer who—

7 “(1) has failed of selection for promotion to the grade of
 8 lieutenant colonel or commander for the second time;

9 “(2) has been continued under subsection (b), but has not been
 10 subsequently promoted; and

11 “(3) is not carried on any list of officers recommended for
 12 appointment to the next higher grade;

13 shall, unless sooner separated or retired under another provision of
 14 law, be retired on the first day of the month following the month in
 15 which that officer becomes qualified for retirement under section
 16 3911, 6323, or 8911 of this title. An officer subject to retirement under
 17 this subsection may, in the discretion of the Secretary concerned, be
 18 retired on any earlier date on which that officer is eligible for retire-
 19 ment under any other provision of law.

20 **“§ 632. Regular lieutenant colonels and commanders: retirement**
 21 **for failure of selection for promotion**

22 “Each officer of the Regular Army, Regular Navy, Regular Air
 23 Force, or Regular Marine Corps, serving in the grade of lieutenant
 24 colonel or commander, except an officer designated for limited duty,
 25 who is not on a list of officers recommended for promotion, and who
 26 is considered as having twice failed of selection for promotion to the
 27 grade of colonel or captain (Navy), shall be retired on the first day
 28 of the month following the month in which he completes 26 years of
 29 service as computed under section 637 of this title. However, an officer
 30 whose second failure of selection for promotion occurred within
 31 six months before the date he would have completed 26 years of
 32 service, as computed under section 637 of this title, shall not be
 33 retired earlier than the first day of the seventh calendar month after
 34 the President approves the report of a board convened under section
 35 611 of this title that considered, but did not recommend, him for
 36 promotion. No officer shall be retired under this section earlier than
 37 the date which would qualify him for retirement under section 3911,
 38 6323, or 8911 of this title.

1 **"§ 633. Regular colonels and captains (Navy): retirement for**
 2 **years of service**

3 “(a) Each officer of the Regular Navy or Regular Marine Corps
 4 who is serving in the grade of captain (Navy) or colonel (Marine
 5 Corps), except an officer designated for limited duty, whose name is
 6 not on a recommended list for promotion to a higher grade shall, if
 7 not earlier retired, be retired on the first day of the month after the
 8 month in which he completes 30 years of service as computed under
 9 section 637 of this title. However, an officer in a grade below
 10 commodore admiral or brigadier general on the active-duty list
 11 who—

12 “(1) has the rank of commodore admiral or rear admiral or
 13 brigadier general while serving in a statutory office; and

14 “(2) would be retired under this section;
 15 may have his date of retirement deferred by the Secretary of the Navy
 16 during the time the officer serves in the statutory office.

17 “(b) Each officer of the Regular Army or Regular Air Force who
 18 has the regular grade of colonel, and who has not been recommended
 19 for promotion under section 3306 or 8306 of this title, shall, if not ear-
 20 lier retired, be retired on the first day of the month after the month in
 21 which he completes 30 years of service as computed under section 637
 22 of this title.

23 “(c) No officer shall be retired under this section earlier than the
 24 date which would qualify him for retirement under section 3911, 6323,
 25 or 8911 of this title.

26 **"§ 634. Regular commissioned officers: continuation on active**
 27 **duty**

28 “(a) Notwithstanding section 632 or 633 of this title, each regular
 29 officer on the active-duty list of the Army, Navy, Air Force, or Marine
 30 Corps, except limited-duty officers of the Navy and Marine Corps, serv-
 31 ing in the grade of—

32 “(1) lieutenant colonel or commander who has failed of selec-
 33 tion for promotion to the grade of colonel or captain (Navy) two
 34 or more times and whose name is not on a recommended list for
 35 promotion; or

36 “(2) colonel or captain (Navy) who has served at least four
 37 years in grade and whose name is not on a recommended list for
 38 promotion;

1 may be considered for continuation on active duty by boards convened
 2 under section 635 of this title. The number of such officers authorized
 3 by the Secretary of the military department concerned to be selected
 4 for continuation on active duty may not be less than 70 percent of the
 5 number in each grade of those officers considered in each of the com-
 6 petitive categories.

7 “(b) An officer who is considered, but not selected, for continuation
 8 under this section shall—

9 “(1) if he is eligible for retirement under any other provision of
 10 law, be retired under that law on the date requested by him and
 11 approved by the Secretary concerned, but not later than the first
 12 day of the seventh month after the Secretary concerned approves
 13 the report of the board that considered, but did not recommend,
 14 him for continuation;

15 “(2) if he is not eligible for retirement under any other provi-
 16 sion of law, be retained on active duty until qualified for retire-
 17 ment under section 3911, 6323, or 8911 of this title, and then re-
 18 tired, unless he is sooner separated or retired under some other
 19 provision of law; or

20 “(3) if his name is on an approved list for promotion to a higher
 21 grade than that in which he was serving at the time he was con-
 22 sidered, but not selected, for continuation under this section, be
 23 retained on active duty.

24 “(c) An officer who has once been recommended for continuation on
 25 active duty under this section, but has not been selected for promotion
 26 to the next higher grade, is not eligible for consideration for continua-
 27 tion on active duty by a subsequent board convened under section 635
 28 of this title sooner than the fifth fiscal year after the date of the ap-
 29 proval by the Secretary concerned of the report of the previous board
 30 that recommended him for continuation on active duty.

31 “(d) An officer continued under this section is subject to involun-
 32 tary retirement under sections 632 and 633 of this title.

33 **“§ 635. Authority to convene selection boards to recommend cer-
 34 tain officers for continuation on active duty**

35 “The Secretary concerned—

36 “(1) may, whenever the needs of the service require, convene
 37 selection boards to recommend certain officers for continuation
 38 on active duty under sections 631 and 634 of this title; and

39 “(2) shall prescribe regulations for administration of this
 40 section and sections 631 and 634 of this title.

1 **“§ 636. Continuation on active duty for disciplinary action**

2 “In the case of an officer to be separated under section 629, 630,
3 or 631 of this title, when action has commenced against him with a
4 view to trial by court-martial (as by apprehension, arrest, confine-
5 ment, or filing of charges) the separation of that officer may be
6 delayed, without prejudice, by the Secretary of the military depart-
7 ment concerned until the completion of the action. If the officer is
8 not separated as a result of action with a view to trial by court-
9 martial, he shall be separated under section 629, 630, or 631 of this
10 title. However, unless the Secretary concerned determines that a
11 further delay is necessary for the good of the service, a separation
12 may not be delayed under this section for more than one year after
13 the date the officer would otherwise have been separated.

14 **“§ 637. Computation of creditable service for involuntary retire-**
15 **ment and other purposes**

16 “The period of service which subjects an officer on the active-
17 duty list to involuntary retirement under section 632 or 633 of this
18 title, release from active duty under section 687a of this title, and
19 the period of service of an officer in a grade below brigadier general
20 or commodore admiral for purposes of section 1208(a)(1) of this
21 title, shall be computed as follows:

22 “(1) For an officer who has served continuously on active duty
23 since his appointment in the grade of second lieutenant or ensign,
24 his period of creditable service is his period of active commis-
25 sioned service in any armed force.

26 “(2) For any other officer, his period of creditable service
27 shall be computed by adding—

28 “(A) his commissioned service during his latest period of
29 continuous active duty; and

30 “(B) under regulations prescribed by the Secretary of
31 the military department concerned, a period of service to
32 be determined at the time the officer is placed on the active-
33 duty list under section 620 of this title during his latest pe-
34 riod of continuous active duty, which period—

35 “(i) may not, except for a medical or dental officer,
36 be greater than the creditable service of the next senior
37 due-course officer or less than that of the next junior
38 due-course officer; and

39 “(ii) for a medical or dental officer, shall reflect the

1 officer's position on the active-duty list relative to other
2 officers of his competitive category.

3 If an officer has received constructive service credit under section 544
4 (b) of this title, or any other provision of law, such credit shall be
5 subtracted from the period of service otherwise computed under
6 this section.

7 **"§ 638. Deferment of retirement or separation**

8 "The Secretary of the military department concerned may defer
9 the retirement or separation under this title of any officer, including
10 an officer covered by section 641 of this title, in the grade of second
11 lieutenant or ensign, or above, if, because of unavoidable circum-
12 stances, evaluation of his physical condition and determination of
13 his entitlement to retirement or separation for physical disability
14 require hospitalization or medical observation that cannot be com-
15 pleted before the date he would otherwise be required to retire or be
16 separated under this title.

17 **"§ 639. Promotion, separation, and involuntary retirement of**
18 **medical and dental officers**

19 "Notwithstanding any other provision of this title, the selection
20 and promotion of medical and dental officers to grades below brigadier
21 general or commodore admiral shall be based on the needs of the service
22 as determined by the Secretary of the military department concerned.
23 The selection and promotion of those officers shall be under regulations
24 prescribed by the Secretary of Defense and in accordance, as nearly as
25 practicable, with the provisions of this chapter. However, a regular
26 medical or regular dental officer shall be subject to the involuntary
27 retirement, selective continuation, and separation provisions of this
28 chapter.

29 **"§ 640. Officers performing professional functions: defined; dis-**
30 **charge upon loss of qualifications**

31 "(a) A commissioned officer on the active-duty list of the Army,
32 Navy, Air Force, or Marine Corps who is appointed or designated
33 as a medical officer, dental officer, judge advocate, veterinary officer,
34 medical service officer, nurse, medical specialist, or chaplain is an
35 officer performing a professional function.

36 "(b) Under regulations prescribed by the Secretary of the military
37 department concerned, an officer performing a professional function
38 as set forth in subsection (a) may, if he fails to maintain the qualifica-
39 tions needed to perform his professional function—

1 “(1) be separated; or

2 “(2) if eligible under any provision of law, be retired.

3 **“§ 641. Exclusion of certain officers**

4 “(a) Officers in the following categories are not subject to this
5 chapter:

6 “(1) Reserve commissioned officers—

7 “(A) on active duty for training;

8 “(B) on active duty under section 175, 265, 678, 3015,
9 3019, 3033, 3496, 5251, 5252, 8019, 8033, or 8496 of this title,
10 or section 708 of title 32;

11 “(C) on active duty to pursue special work;

12 “(D) ordered to active duty (other than for training)—

13 “(i) under section 672(a), 673, or 674 of this title; or

14 “(ii) in other emergency situations; or

15 “(E) on active duty for the administration of the Selective
16 Service System under section 10(b)(2) of the Military Selec-
17 tive Service Act, as amended (50 U.S.C. App. 460(b)(2)).

18 However, reserve commissioned officers covered by clause (D)
19 may be excluded from the provisions of this chapter for not more
20 than the duration of the war or emergency for which those officers
21 were ordered to active duty and for six months thereafter.

22 “(2) The registrar and permanent professors at the United
23 States Military Academy and the United States Air Force Acad-
24 emy.

25 “(3) Warrant officers.

26 “(4) Retired officers on active duty.

27 “(b) Officers serving in grades above colonel or captain (Navy),
28 other than those officers included in subsection (a), are subject to sec-
29 tions 620, 633, 637, 638, and 643 of this chapter only, and no other
30 provision.

31 “(c) An officer designated for limited duty in the Navy or Marine
32 Corps who fails of selection for promotion to the next higher grade for
33 the second time and is not selected for promotion is governed by sec-
34 tion 6383 of this title.

35 **“§ 642. Suspension: preceding sections**

36 “In time of war, or of national emergency declared by Congress or
37 the President after January 1, 1975, the President may suspend any
38 provision of the preceding sections of this chapter. Such a suspension

may not continue beyond the end of the fiscal year following the year in which the war or national emergency ends.

“§ 643. Commissioned officers: entitlement to separation pay or retired pay

“(a) An officer discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1173a of this title.

“(b) An officer retired under this chapter is entitled to retired pay computed under section 3991 or 8991, or chapter 71, 571, or 573, of this title, as appropriate.”.

(7) Amending chapter 39 by—

(A) repealing section 687 and striking out the corresponding item for that section from the chapter analysis; and

(B) inserting the following new section and a corresponding new item for that section in the chapter analysis:

“§ 687a. Reserve commissioned officers: active duty limitation; separation pay

“(a) A reserve commissioned officer who has completed 11 years of service computed under section 637 of this title and who is not recommended for, or who declines, an appointment as a regular officer, may not be placed on, or continue on, the active-duty list as a Reserve.

“(b) An officer released from active duty under this section is entitled, if eligible therefor, to separation pay under section 1173a of this title.

“(c) In time of war, or of national emergency declared by Congress or the President after January 1, 1975, the President may suspend the operation of this section.”.

(8) Amending chapter 59 by—

(A) amending section 1165 by striking out the second sentence and inserting in place thereof: “A warrant officer who is separated under this title is entitled, if eligible therefor, to separation pay under section 1173a of this title, or he may be enlisted under section 515 of this title.”;

(B) amending section 1166(a) by—

(i) striking out “severance pay computed under section 1167(b)” in the second sentence and inserting in place thereof “, if eligible therefor, separation pay under section 1173a”; and

(ii) amending the third sentence to read as follows: “However, instead of being granted the benefits of the preceding sentence, he may be enlisted under section 515 of this title.”;

1 (C) repealing section 1167 and striking out the correspond-
2 ing item for that section from the chapter analysis; and

3 (D) inserting the following new section and inserting a
4 corresponding new item for that section in the chapter
5 analysis:

6 **"§ 1173a. Members: separation pay upon involuntary discharge**
7 **or release from active duty**

8 "(a) For the purposes of chapter 36 (except sections 629(1) and
9 640(b)), and sections 564, 687a, 3814a, and 6383(i), of this title, an
10 officer who is involuntarily discharged or released from active duty
11 and who has completed five or more, but less than 20, years of active
12 service immediately before that discharge or release is entitled to
13 separation pay equal to 10 percent of the product of his years of active
14 service multiplied by 12 times the monthly basic pay to which he was
15 entitled at the time of his discharge. However, no person is entitled to
16 separation pay under this subsection that is more than \$30,000.

17 "(b) For the purposes of sections 1165, 1166, 1187, and 6384 of this
18 title, and under regulations prescribed by the Secretary of Defense,
19 an officer who is discharged or released from active duty and who has
20 completed five or more, but less than 20, years of active service imme-
21 diately before that discharge or release is entitled, as determined by
22 the Secretary concerned (except when he determines that the condi-
23 tions under which the officer is discharged do not warrant payment of
24 separation pay) to separation pay computed as follows:

25 "(1) 10 percent of the product of his years of active service
26 multiplied by 12 times the monthly basic pay to which he was en-
27 titled at the time of his discharge; or

28 "(2) 5 percent of the product of his years of active service
29 multiplied by 12 times the monthly basic pay to which he was en-
30 titled at the time of his discharge.

31 An officer discharged under section 629(1) or 640(b) of this title is
32 entitled, if eligible therefor, to separation pay under this subsection.
33 However, no person is entitled to separation pay under this subsection
34 that is more than \$30,000.

35 "(c) (1) Under regulations prescribed by the Secretary of Defense,
36 a reserve or temporary commissioned officer, a reserve or temporary
37 warrant officer, or a reserve or temporary enlisted member, of an armed
38 force who is discharged or released from active duty, and who has
39 completed five or more, but less than 20, years of service computed un-
40 der section 1405(a) (1) of this title immediately before that discharge

1 or release, is entitled to separation pay in accordance with this sub-
2 section, if—

3 “(A) his discharge or release from active duty is involuntary;
4 or

5 “(B) he was not accepted for an additional tour of active duty
6 for which he volunteered.

7 “(2) A member described in this subsection is entitled, as deter-
8 mined by the Secretary concerned (except when he determines that the
9 conditions under which the member is discharged do not warrant pay-
10 ment of separation pay) to separation pay computed as follows:

11 “(A) 10 percent of the product of his years of active service
12 under section 1405(a) (1) of this title multiplied by 12 times the
13 monthly basic pay to which he was entitled at the time of his
14 discharge or release from active duty; or

15 “(B) 5 percent of the product of his years of active service
16 under section 1405(a) (1) of this title multiplied by 12 times the
17 monthly basic pay to which he was entitled at the time of his dis-
18 charge or release from active duty.

19 “(3) However, no person is entitled to separation pay under this
20 subsection that is more than \$30,000. This subsection does not apply to
21 a member who—

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

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

24 “(C) upon discharge or release from active duty is immediately
25 eligible for retired or retainer pay based entirely on his military
26 service.

27 “(d) In determining the total number of years of service to be used
28 as a multiplier in computing separation pay under this section, a part
29 of a year that is six months or more is counted as a whole year and a
30 part of a year that is less than six months is disregarded.

31 “(e) For the purposes of this section—

32 “(1) a period for which the member concerned has previously
33 received separation pay, severance pay, or readjustment pay under
34 this section, or under any other provision of law, based on his
35 service in the armed forces shall not be included in computing
36 the number of years of service that may be used as a multiplier;
37 and

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

1 “(f) A member who received separation pay under this section, or
 2 severance pay or readjustment pay under any other provision of law,
 3 based on his service in the armed forces, and who later qualifies for
 4 retired or retainer pay under this title or title 14, shall have deducted
 5 from each of his retired or retainer pay payments so much thereof as
 6 is based on the service for which he has received separation pay under
 7 this section, or severance pay or readjustment pay under any other
 8 provision of law, until the total deductions equal the amount of the
 9 separation pay, and severance pay or readjustment pay, received. In
 10 addition, a member who received separation pay under this section, or
 11 severance pay or readjustment pay under any other provision of law,
 12 based on his service in the armed forces is not deprived of any dis-
 13 ability compensation to which he may be entitled under a law ad-
 14 ministered by the Veterans’ Administration, but there shall be de-
 15 ducted from that disability compensation an amount equal to the
 16 separation pay, and severance pay or readjustment pay, received.
 17 However, the preceding sentence does not require that a deduction be
 18 made from disability compensation of the amount of the separation
 19 pay, and severance pay or readjustment pay, received because of an
 20 earlier discharge or release from a period of active duty, if the dis-
 21 ability which is the basis for that disability compensation was incurred
 22 or aggravated during a later period of active duty.”.

23 (9) Inserting the following new item in the chapter analysis
 24 and the chapter analysis of part II:

25 “60. Separation of Regular Officers for Various Reasons.----- 1181”.

26 (10) Inserting the following new chapter in part II:

27 **“Chapter 60.—SEPARATION OF REGULAR OFFICERS FOR**
 28 **VARIOUS REASONS**

“Sec.

“1181. Boards of officers: substandard performance of duty; authority to con-
 vene.

“1182. Boards of officers: other than substandard performance of duty; author-
 ity to convene.

“1183. Boards of inquiry: composition; duties.

“1184. Boards of review: composition; duties.

“1185. Removal of officer: action by Secretary upon recommendation.

“1186. Rights and procedures.

“1187. Officer considered for removal: retirement or discharge.

“1188. Officers eligible to serve on boards.

29 **“§ 1181. Boards of officers: substandard performance of duty;**
 30 **authority to convene**

31 “The Secretary of the military department concerned may, at any
 32 time, convene a board of officers to review the record of any commis-
 33 sioned officer, other than a commissioned warrant officer or a retired

1 officer, of the Regular Army, Regular Navy, Regular Air Force, or
 2 Regular Marine Corps, as the case may be, to determine whether he
 3 shall be required, because his performance of duty has fallen below
 4 standards prescribed by the Secretary concerned, to show cause for
 5 his retention on active duty.

6 **"§ 1182. Boards of officers: other than substandard performance**
 7 **of duty; authority to convene**

8 "The Secretary of the military department concerned may at any
 9 time convene a board of officers to review the record of any commis-
 10 sioned officer, other than a commissioned warrant officer or a retired
 11 officer, of the Regular Army, Regular Navy, Regular Air Force, or
 12 Regular Marine Corps, as the case may be, to determine whether he
 13 should be required, because of misconduct, because of moral or pro-
 14 fessional dereliction, or because his retention is not clearly consistent
 15 with the interests of national security to show cause for his retention
 16 on active duty.

17 **"§ 1183. Boards of inquiry: composition; duties**

18 "(a) Boards of inquiry, each composed of three or more officers,
 19 shall be convened, at such places as the Secretary of the military de-
 20 partment concerned may prescribe, to receive evidence and make find-
 21 ings and recommendations whether an officer who is required to show
 22 cause for retention under section 1181 or 1182 of this title should be
 23 retained on active duty.

24 "(b) A fair and impartial hearing before a board of inquiry shall
 25 be given to each officer required under subsection (a) to show cause
 26 for retention on active duty.

27 "(c) If a board of inquiry determines that the officer has failed to
 28 establish that he should be retained, it shall send the record of its
 29 proceedings to a board of review.

30 "(d) If a board of inquiry determines that the officer has established
 31 that he should be retained on active duty, his case is closed. How-
 32 ever—

33 "(1) at any time after one year from the date of that deter-
 34 mination, an officer who is required to show cause for retention
 35 under section 1181 of this title may again be required to show
 36 cause for retention; or

37 "(2) an officer who is required to show cause for retention under
 38 section 1182 of this title may again be required to show cause for
 39 retention at any time.

40 A member who has been required to show cause as a result of pro-

ceedings under section 1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of a board of officers are determined to have been obtained by fraud or collusion.

“§ 1184. Boards of review: composition; duties

“(a) Boards of review, each composed of three or more officers, shall be convened by the Secretary of the military department concerned, at such times as he may prescribe, to review the records of cases of regular commissioned officers recommended for removal from active duty by boards of inquiry convened under section 1183 of this title.

“(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained on active duty, it shall send its recommendation to the Secretary concerned for his action.

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

“(1) at any time after one year from the date of that determination, he may be again required to show cause for retention in those cases brought under section 1181 of this title; or

“(2) in those cases brought under section 1182 of this title, an officer may be again required to show cause for retention at any future time.

A member who has been required to show cause as a result of proceedings under section 1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of a board of officers are determined to have been obtained by fraud or collusion.

“§ 1185. Removal of officer: action by Secretary upon recommendation

“The Secretary of the military department concerned may remove an officer of a regular component of an armed force from active duty if his removal is recommended by a board of review under this chapter. The Secretary’s action in such a case is final and conclusive.

“§ 1186. Rights and procedures

“Under regulations prescribed by the Secretary of the military department concerned, each officer under consideration for removal from active duty under this chapter shall be—

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

4 “(2) allowed reasonable time, as determined by the board of
5 inquiry, to prepare his defense;

6 “(3) allowed to appear in person and be represented by coun-
7 sel at proceedings before a board of inquiry; and

8 “(4) allowed full access to, and furnish copies of, records rele-
9 vant to the case at all stages of the proceeding, except that a board
10 shall withhold any records that the Secretary concerned deter-
11 mines should be withheld in the interest of national security.

12 When any records are withheld under clause (4), the officer whose
13 case is under consideration shall, to the extent that the national secu-
14 rity permits, be furnished a summary of the records so withheld.

15 **“§ 1187. Officer considered for removal: retirement or discharge**

16 “(a) At any time during proceedings under this chapter and before
17 the removal of an officer of a regular component of an armed force
18 from active duty, the Secretary of the military department concerned
19 may grant a request—

20 “(1) for voluntary retirement, if the officer is otherwise quali-
21 fied therefor;

22 “(2) for honorable discharge under subsection (b), in those
23 cases brought under section 1181 of this title; or

24 “(3) for discharge under subsection (b), in those cases brought
25 under section 1182 of this title.

26 “(b) Each officer of a regular component of an armed force re-
27 moved from active duty under this chapter shall—

28 “(1) if he is eligible for voluntary retirement under any law
29 on the date of his removal, be retired in the grade and with the
30 pay for which he would be eligible, if retired at his request;

31 “(2) if he is ineligible for voluntary retirement under any law
32 on the date of his removal—

33 “(A) be honorably discharged in the grade then held, in
34 those cases brought under section 1181 of this title; or

35 “(B) be discharged in the grade then held, in those cases
36 brought under section 1182 of this title.

37 “(c) An officer discharged under this chapter is entitled, if eligible
38 therefore, to separation pay under section 1173a of this title. An
39 officer retired under this chapter is entitled to retired pay computed
40 under section 3991 or 8991, or chapter 571, of this title, as appropriate.

1 **“§ 1188. Officers eligible to serve on boards**

2 “(a) An officer who serves on a board convened under this chapter
3 shall be an officer of the same armed force as the officer being con-
4 sidered. No officer may serve on a board under this chapter unless
5 he is serving on active duty in a grade above lieutenant colonel or
6 commander, and is senior in regular grade to, and outranks, any of-
7 ficer of his armed force considered by that board. However, if qualified
8 officers on active duty are not available in sufficient numbers to com-
9 prise a board, the Secretary of the military department concerned
10 shall complete the membership by appointing retired officers of the
11 same armed force who have the prescribed qualifications.

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

14 (11) Amending chapter 1 by amending section 101 by—

15 (A) striking out “active list” and inserting in place thereof
16 “active-duty list” in clause (22);

17 (B) repealing clause (36); and

18 (C) adding the following new clauses:

19 “(37) ‘Active-duty list’ means the list maintained under section
20 620 of this title. With respect to—

21 “(A) regular officers, other than those excluded under
22 chapter 36 of this title, it is the list on which they are carried
23 while on active duty;

24 “(B) reserve officers, other than those excluded under chap-
25 ter 36 of this title, it is the list on which they are carried along
26 with regular officers while on active duty (other than for
27 training); and

28 “(C) officers serving under temporary appointments under
29 section 605 of this title, and officers in the Navy or Marine
30 Corps designated for limited duty who are serving under
31 temporary appointments, it is the list on which they are
32 carried while on active duty along with regular officers.

33 “(38) ‘Competitive category’ means a community of officers in
34 which officers appointed therein or so designated compete among
35 themselves for promotion.

36 “(39) ‘Medical officer’, with respect to the Army and Navy,
37 means an officer of the Medical Corps and, with respect to the Air
38 Force, means an officer designated as a medical officer.

39 “(40) ‘Dental officer’, with respect to the Army and Navy,

1 means an officer of the Dental Corps and, with respect to the Air
2 Force, means an officer designated as a dental officer.

3 “(41) ‘Due-course officer’ means an officer on the active-duty
4 list who—

5 “(A) has been on continuous active duty since the date he
6 was commissioned; .

7 “(B) has not been awarded service credit under section
8 544(b) of this title;

9 “(C) has not failed to be promoted for any reason;

10 “(D) has never been selected for promotion below the
11 zone;

12 “(E) with respect to the Navy and Marine Corps, has not
13 lost numbers or precedence; and

14 “(F) is serving in a grade below brigadier general or com-
15 modore admiral, except a warrant officer.”.

16 (12) Amending chapter 3 by amending section 123 by striking
17 out “3571,” “5867,” “6398,” and “8571.”.

18 (13) Amending chapter 43 by—

19 (A) amending the text of section 741 to read as follows:

20 “(a) The commissioned officers listed below rank among themselves
21 as follows:

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

22 “(b) The rank, within each grade, is determined by date of rank.”;

23 (B) adding the following new section and a corresponding
24 new item for that section in the chapter analysis:

25 “§ 741a. Rank: commissioned officers on active duty

26 “(a) Rank among officers in the Army, Navy, Air Force, or Marine
27 Corps on active duty in the same grade, is determined as follows:

28 “(1) Officers on the active-duty list rank among themselves ac-
29 cording to their position on the list, except as otherwise provided
30 by law.

31 “(2) Officers not on the active-duty list rank among themselves
32 according to their dates of rank.

1 “(3) As between two officers, one on the active-duty list and one
2 not on the active-duty list, rank depends on the date of rank.

3 “(b) The date of rank—

4 “(1) for an officer on the active-duty list, is determined under
5 regulations prescribed by the Secretary of the military depart-
6 ment concerned upon placement on the active-duty list under
7 section 620 of this title, and subsequently upon promotion under
8 other provisions of this title; and

9 “(2) for an officer who is not on the active-duty list is, unless
10 otherwise provided by law, determined under regulations pre-
11 scribed by the Secretary concerned.

12 “(c) When the dates of rank prescribed in subsection (b) are the
13 same, rank, unless otherwise provided by law, is determined under
14 regulations prescribed by the Secretary concerned.”; and

15 (C) amending section 743 by striking out “active list” and
16 inserting in place thereof “active-duty list”.

17 (14) Amending chapter 49 by amending section 973 by strik-
18 ing out “active list” and inserting “active-duty list”, and by in-
19 serting “the active list of the” before “Regular Coast Guard”, in
20 subsections (a) and (b).

21 (15) Amending chapter 55 by amending section 1072 by—

22 (A) striking out “wife” and inserting in place thereof
23 “spouse” in clause (2) (A);

24 (B) repealing clause (2) (C); and

25 (C) by amending clause (2) (D) to read as follows:

26 “(D) the unremarried widower;”.

27 (16) Amending chapter 61 by—

28 (A) amending section 1208(a) (1) by inserting “and
29 active-duty list” before the period at the end thereof; and

30 (B) amending section 1211(a) (1) by striking out “active
31 list” and inserting in place thereof “active-duty list”.

32 (17) Amending chapter 65 by inserting the following new sec-
33 tion and a corresponding new item for that section in the chapter
34 analysis:

35 “§ 1316. Voluntary retirement: time in grade

36 “A regular commissioned officer is not eligible for voluntary retire-
37 ment under chapter 367, 571, or 867 of this title until he completes at
38 least six months in the grade in which he is to be retired.”.

39 (18) Amending chapter 71 by—

(A) amending the table in section 1401 by—

(i) adding new formula 5, as follows:

"5	630	Monthly basic	2½% of years	Amount neces-	Excess over
	631	pay ¹ of	of service	sary to in-	75% of pay
	632	grade ² to	credited	crease	upon which
	633	which	under	product of	computation
		member is	section	columns 1	is based. ³ ;
		entitled on	1405. ³	and 2 to 50%	and
		day before		of pay upon	
		retirement.		which	
				computation	
				is based.	

(ii) adding a new footnote 5, as follows:

³ For the purposes of this section, determine member's retired grade as if sections 3962(c) and 8962(b) did not apply.";

and

(B) amending section 1405 to read as follows:

§ 1405. Years of service

"(a) For the purposes of section 1401 (formula 4), 3888(1), 3927 (b) (1), 3991 (formula B), 6151(b), 6323(e), 6325 (a) (2) and (b) (2), 6381(a) (2), 6383(c) (2), 6390(b) (2), 6394(h), 8888(1), 8927(b) (1), or 8991 (formula B) of this title, the years of service of a member of the armed forces are computed by adding—

"(1) his years of active service;

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

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

"(b) For the purposes of section 1401 (formula 5) of this title, the years of service are—

"(1) for a member of the Regular Army, computed under section 3927(b) of this title;

"(2) for a member of the Regular Navy or Regular Marine Corps, computed under subsection (a) of this section;

"(3) for a member of the Regular Air Force, computed under section 8927(b) of this title.

"(c) For the purposes of this section, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded."

SEC. 3. Subtitles B and D of title 10, United States Code, are amended by:

(1) Repealing chapters 359, 360, 859, and 860.

(2) Amending the chapter analyses and the chapter analyses of

part II by striking out the items relating to chapters 359, 360, 859, and 860.

(3) Amending chapters 307 and 807 by—

(A) amending sections 3066(c) and 8066(c) by striking out “active list” and inserting in place thereof “active-duty list”;

(B) repealing section 3071 and striking out the corresponding item for that section from the analysis of chapter 307;

(C) amending section 8062(e) by striking out “chapter 831” and inserting in place thereof “chapters 30 and 831”;

(D) amending section 8067(a) by striking out “8289 or”; and

(E) amending section 8067(e) by striking out “in conformity with section 8291 of this title”.

(4) Amending chapter 331 by—

(A) amending the language of the catchline of section 3202 and the corresponding item for that section in the chapter analysis to read as follows: “Army: strength in grade; general officers”;

(B) amending section 3202 by—

(i) amending subsection (a) to read as follows:

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

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

If the total number authorized is determined to be between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If it

1 is determined to be more than 150,000, the Secretary of the Army
2 shall fix the corresponding authorized strength in general officers in
3 general conformity with the table.”; and

4 (ii) by repealing subsection (e):

5 (C) amending section 3209 to read as follows:

6 **“§ 3209. Regular Army: commissioned officers on the active-duty**
7 **list; Corps of Engineers**

8 “The strength prescribed by the Secretary of the Army under sec-
9 tion 451(b) of this title for the Corps of Engineers may not be less
10 than 788.”;

11 (D) amending the language of the item for section 3209
12 in the chapter analysis to read as follows: “Regular Army:
13 commissioned officers on the active-duty list; Corps of Engi-
14 neers.”;

15 (E) amending section 3210 by striking out “active list”
16 wherever it appears and inserting in place thereof “active-
17 duty list”;

18 (F) amending section 3212 by striking out the first sen-
19 tence and inserting in place thereof “The authorized
20 strength in any regular general officer grade or any reserve
21 grade, as prescribed by or under this chapter, is automatically
22 increased to the minimum extent necessary to give effect to
23 each appointment in that grade under section 1211(a), 3086,
24 3365(a), or 3366 of this title.”;

25 (G) amending sections 3222 and 3225 by striking out “of
26 837,000” and “in section 3201(a) of this title”;

27 (H) repealing sections 3201, 3203, 3204, 3205, 3206, 3207,
28 3211, 3213, 3214, 3215, and 3230 and by striking out the cor-
29 responding items for those sections from the chapter analysis.

30 (5) Amending chapter 831 by—

31 (A) amending the language of the catchline of section 8202
32 and the corresponding item for that section in the chapter
33 analysis to read as follows: “Air Force: strength in grade;
34 general officers”;

35 (B) amending section 8202 by—

36 (i) amending subsection (a) to read as follows:

37 “(a) The authorized strength of the Air Force in general officers
38 on active duty on the last day of each fiscal year, exclusive of officers
39 on active duty for training only and officers serving with other depart-
40 ments or agencies on a reimbursable basis, is, except as provided in

- 1 subsection (f), based on the actual strength in commissioned officers
 2 on active duty as follows:

"If the actual strength ¹ is—	The authorized strength for general officers is—
50,000	312
60,000	324
70,000	336
80,000	349
90,000	363
100,000	380
110,000	398
120,000	416
130,000	434
140,000	452
150,000	470
160,000	478
170,000	486
180,000	495.

¹ As determined by the Secretary of the Air Force.

- 3 If the actual strength is determined to be between two of the figures
 4 listed in the first column of the table, the authorized strength for
 5 general officers is determined by mathematical interpolation between
 6 the respective authorized strengths listed in the table. If it is deter-
 7 mined to be more than 180,000, the Secretary shall fix the correspond-
 8 ing authorized strength in general officers in general conformity with
 9 the table.”; and

10 (ii) by repealing subsection (e);

11 (C) amending section 8210(a) and (c) by striking out
 12 “active list” and inserting in place thereof “active-duty
 13 list”;

14 (D) amending section 8212 by striking out the first
 15 sentence and inserting in place thereof “The authorized
 16 strength in any regular general officer grade or reserve grade,
 17 as prescribed by or under this chapter, is automatically
 18 increased to the minimum extent necessary to give effect to
 19 each appointment made in that grade under section 1211(a),
 20 8365(a) and (c), 8366(a) and (d), 8375, 8376, 8380, or 8381
 21 of this title.”;

22 (E) amending sections 8222 and 8225 by striking out “of
 23 502,000” and “in section 8201(a) of this title”; and

24 (F) repealing sections 8201, 8203, 8204, 8205, 8206, 8207,
 25 8208, 8209, 8211, 8213, 8214, 8215, and 8230 and by striking
 26 out the corresponding items for those sections from the chap-
 27 ter analysis.

28 (6) Amending chapters 335, 833, and 835 by—

(A) amending section 8257 by striking out "male" wherever it appears;

(B) amending section 3283 by striking out "in the Women's Army Corps," in subsection (a), and "and the Women's Army Corps" in subsection (b);

(C) amending—

(i) section 3290 by striking out "3287(c)" and inserting in place thereof "544"; and

(ii) chapter 835 by inserting the following new section and a corresponding new item for that section in the chapter analysis:

"§ 8290. Commissioned officers: nurses; original appointment; professional qualifications

"To be eligible for original appointment in the Regular Air Force with a view to designation as an Air Force nurse, a person must be a graduate of a hospital or university school of nursing and a registered nurse.";

(D) amending section 3291 by—

(i) amending subsection (b) by inserting "in the Regular Army" after "appointment" and by striking out "under this section";

(ii) repealing subsections (a) and (c); and

(iii) amending the language of the catchline and the corresponding item for that section in the analysis of chapter 335 to read as follows: "Commissioned officers: Army Nurse Corps; original appointment; professional qualifications";

(E) repealing sections 3294(b) and 8294(b);

(F) amending sections 3297 and 8297 by—

(i) amending subsection (a) by striking out "promotion-list officers" and inserting in place thereof "colonels", by striking out "lieutenant colonel" after "grade above" and inserting in place thereof "colonel", and by striking out the last sentence;

(ii) amending subsection (d) to read as follows:

"(d) Except as otherwise provided by law, regular officers may be promoted to the regular grade of brigadier general and major general only when recommended by a selection board. A recommendation for promotion must be made by the majority of the total membership of the board. Notwithstanding any other provision of law, a board that

1 is to recommend officers for promotion under this chapter whom it con-
 2 sider to be the best qualified may recommend only those officers whom
 3 it also considers to be fully qualified.”; and

4 (iii) by adding the following new subsection:

5 “(f) All eligible officers who are in or above the promotion zone as
 6 established by section 622 of this title, shall be considered for promo-
 7 tion by a selection board convened under chapter 36 of this title. From
 8 among the officers eligible in accordance with section 619 of this title,
 9 the officers to be considered for promotion by a selection board consid-
 10 ered from below the promotion zone under section 616 of this title may
 11 be determined under regulations prescribed by the Secretary.”;

12 (G) amending sections 3306(d) and 8306(d) by striking
 13 out “on any promotion list”;

14 (H) amending sections 3307(d) and 8307(d) by striking
 15 out “on any promotion list”;

16 (I) amending sections 3308 and 8308 by—

17 (i) striking out “promotion-list officer” and inserting
 18 in place thereof “colonel”;

19 (ii) striking out “promotion list” and inserting in
 20 place thereof “active-duty list”; and

21 (iii) striking out the last sentence;

22 (J) amending sections 3312(a) and 8312(a) by inserting
 23 “to a grade above colonel” after “who is promoted”;

24 (K) amending sections 3314 and 8314 by—

25 (i) striking out “a higher regular grade” and inserting
 26 in place thereof “a regular grade above colonel”; and

27 (ii) striking out the last sentence; and

28 (L) repealing sections 3285, 3286, 3287, 3288, 3289, 3295,
 29 3296, 3298, 3299, 3300, 3302, 3303, 3305, 3309, 3311, 8285, 8286,
 30 8287, 8288, 8289, 8295, 8296, 8298, 8299, 8300, 8301, 8302, 8303,
 31 8305, and 8309 and by striking out the corresponding items
 32 for those sections from the chapter analyses.

33 (7) Amending chapters 337 and 837 by—

34 (A) amending chapter 337 by amending section 3353 by—

35 (i) amending subsection (b) to read as follows:

36 “(b) A person covered by subsection (a) who is appointed with a
 37 view to assignment or designation in one of the categories requiring
 38 advanced education as a prerequisite for appointment as a commis-
 39 sioned officer shall, under regulations prescribed by the Secretary of
 40 Defense, be credited by the Secretary of the Army with an amount

1 of service in an active status that is not less than the amount of active
 2 commissioned service creditable under section 544 of this title to a
 3 regular commissioned officer of his category.”; and

4 (ii) repealing subsection (c); and

5 (B) amending chapter 837 by amending section 8353 by—

6 (i) amending subsection (b) to read as follows:

7 “(b) A person covered by subsection (a) who is appointed with a
 8 view to assignment or designation in one of the categories requiring
 9 advanced education as a prerequisite for appointment as a commis-
 10 sioned officer shall, under regulations prescribed by the Secretary of
 11 Defense, be credited by the Secretary of the Air Force with an amount
 12 of service in an active status that is not less than the amount of active
 13 commissioned service creditable under section 544 of this title to a
 14 regular commissioned officer of his category”; and

15 (ii) repealing subsection (c).

16 (8) Amending chapters 337 and 837 by—

17 (A) amending chapter 337 by adding the following new
 18 section and a corresponding new item for that section in the
 19 chapter analysis:

20 **“§ 3396. Exclusion of certain officers**

21 “The preceding sections of this chapter, except section 3353, shall
 22 not apply to those reserve officers covered by chapter 36 of this title.”;
 23 and

24 (B) amending chapter 837 by adding the following new
 25 section and a corresponding new item for that section in
 26 the chapter analysis:

27 **“§ 8396. Exclusion of certain officers**

28 “The preceding sections of this chapter, except section 8353, shall
 29 not apply to those reserve officers covered by chapter 36 of this title.”.

30 (9) Amending chapters 339 and 839 by—

31 (A) amending section 3442 by—

32 (i) striking out “second lieutenant” and inserting in
 33 place thereof “colonel” in subsection (a); and

34 (ii) amending subsection (b) to read as follows:

35 “(b) Whenever, under authorization by Congress, the number of
 36 commissioned officers of the Regular Army on active duty plus the
 37 number of other commissioned officers of the Army ordered to active
 38 duty for a period of more than 30 days is more than the authorized
 39 strength of the Regular Army in commissioned officers on the active-

1 duty list, the Secretary of the Army shall determine the additional
 2 number of officers needed in commissioned grades above colonel based
 3 upon the number of commissioned officers serving on active duty and
 4 the tasks being performed by the Army. Vacancies resulting from that
 5 determination may then be filled by the appointment of qualified
 6 officers as prescribed in subsection (c).";

7 (B) amending section 8442 by—

8 (i) striking out "second lieutenant" and inserting in
 9 place thereof "colonel" in subsection (a); and

10 (ii) amending subsection (b) to read as follows:

11 "(b) Whenever, under authorization by Congress, the number of
 12 commissioned officers of the Regular Air Force on active duty plus
 13 the number of other commissioned officers of the Air Force ordered
 14 to active duty for a period of more than 30 days is more than the
 15 authorized strength of the Regular Air Force in commissioned officers
 16 on the active-duty list, the Secretary of the Air Force shall determine
 17 the additional number of officers needed in the commissioned grades
 18 above colonel based upon the number of commissioned officers serving
 19 on active duty and the tasks being performed by the Air Force.
 20 Vacancies resulting from that determination may then be filled by the
 21 appointment of qualified officers as prescribed in subsection (c).";

22 (C) amending—

23 (i) sections 3444(a) and 8444(a) by inserting "above
 24 the grade of colonel" before the period at the end;

25 (ii) section 3444(d) by striking out "a promotion list"
 26 and inserting in place thereof "the active-duty list", and
 27 by striking out "3294(b)" and inserting "544" in place
 28 thereof; and

29 (iii) section 8444(d) by striking out "a promotion
 30 list" and inserting in place thereof "the active-duty list",
 31 and by striking out "8294(b)" and inserting "544" in
 32 place thereof;

33 (D) amending sections 3445 and 8445 by—

34 (i) amending subsection (a) by inserting "serving in
 35 the grade of colonel or above" after "regular officer"; and

36 (ii) amending subsection (b) by inserting "above the
 37 grade of colonel" before the period at the end;

38 (E) amending sections 3447(b) and 8447(b) to read as
 39 follows:

1 “(b) Temporary appointments shall be made by the President alone
2 in warrant officer grades, and by the President, by and with the advice
3 and consent of the Senate, in general officer grades.”;

4 (F) amending sections 3448(b) and 8448(b) by striking
5 out “active list” and inserting in place thereof “active-duty
6 list”;

7 (G) amending sections 3451(a) and 8451(a) by inserting
8 “above the grade of colonel” after “temporary grade”; and

9 (H) repealing sections 3446, 3452, 8446, and 8452 and by
10 striking out the corresponding items for those sections from
11 the chapter analyses.

12 (10) Amending chapters 341 and 841 by—

13 (A) amending section 3494 to read as follows:

14 **“§ 3494. Commissioned officers: grade in which ordered to active
15 duty**

16 “A reserve commissioned officer who is ordered to active duty and—

17 “(1) is placed on the active-duty list, shall be ordered to that
18 duty in a grade as determined under section 620 of this title; or

19 “(2) is not placed on the active-duty list, shall be ordered to that
20 duty in his reserve grade unless the Secretary of the Army in his
21 discretion, orders him to active duty (other than for training) in
22 a higher grade.”; and

23 (B) amending section 8494 to read as follows:

24 **“§ 8494. Commissioned officers: grade in which ordered to active
25 duty**

26 “A reserve commissioned officer who is ordered to active duty and—

27 “(1) is placed on the active-duty list, shall be ordered to that
28 duty in a grade as determined under section 620 of this title; or

29 “(2) is not placed on the active-duty list shall be ordered to
30 that duty in his reserve grade unless the Secretary of the Air
31 Force, in his discretion, orders him to active duty (other than for
32 training) in a higher grade.”.

33 (11) Amending chapter 343 by amending section 3532 by
34 striking out “active list” and inserting in place thereof “active-
35 duty list”.

36 (12) Amending chapters 345 and 845 by—

37 (A) repealing sections 3574(a) and (b) and 8574(a) and
38 (b);

39 (B) amending section 3579 by—

1 (i) striking out “, other than an officer of the Army
2 Nurse Corps or Army Medical Specialist Corps,” in
3 subsection (a); and

4 (ii) repealing subsection (b);

5 (C) amending section 8579 to read as follows:

6 **“§ 8579. Command: commissioned officers in certain designated**
7 **categories**

8 “An officer designated as a medical, dental, veterinary, medical
9 service, or biomedical sciences officer or as an Air Force nurse is not
10 entitled to exercise command because of rank, except within the cate-
11 gories prescribed in section 8067 (a)–(f) or (i) of this title, or over
12 persons placed under his charge.”; and

13 (D) repealing sections 3571, 3580, and 8571 and by strik-
14 ing out the corresponding items for those sections from the
15 chapter analyses.

16 (13) Amending chapters 361 and 861 by repealing sections
17 3814 and 8814 and by striking out the corresponding items for
18 those sections from the chapter analyses.

19 (14) Amending chapter 361 by amending section 3814a by—

20 (A) striking out “a readjustment payment as provided in
21 subsection (c) of this section” in subsection (b) (3) and in-
22 serting in place thereof “, if eligible therefor, separation pay
23 under section 1173a of this title”; and

24 (B) repealing subsections (c) and (d).

25 (15) Amending chapters 365 and 865 by—

26 (A) amending section 3888(2) by striking out “3287(a)

27 (2) (A) or (B) or”; and

28 (B) amending section 8888(2) by—

29 (i) striking out “or (H),” and inserting in place
30 thereof “(H), or (I),”;

31 (ii) inserting “as it existed on the day before the ef-
32 fective date of the Act amending this clause” after “of
33 this title” in clauses (D) and (H) (iii); and

34 (iii) adding the following new clause:

35 “(I) For an officer appointed in the Regular Air Force
36 after the effective date of the Act adding this clause, his years
37 of active commissioned service.”.

38 (16) Amending chapters 367 and 867 by—

39 (A) amending sections 3919 and 8919 by—

- 1 (i) striking out "active list of the Regular" and in-
2 serting in place thereof "active-duty list of the" in the
3 first sentence;
- 4 (ii) striking out "active list" and inserting in place
5 thereof "active-duty list" in the second sentence; and
6 (iii) inserting "regular" before "commissioned" in the
7 first and second sentences;
- 8 (B) amending sections 3922(a) and 8922(a) by striking
9 out "active list" and inserting in place thereof "active-duty
10 list";
- 11 (C) amending section 3927 by—
12 (i) striking out "3913, 3915, 3916, 3919, 3921, 3922,
13 or 3923" in subsections (a) and (b) and inserting in place
14 thereof "3919, 3922, or 3923";
15 (ii) amending subsection (a)(1) by inserting "544
16 (b)," before "3287(a)(2)(A) or (B)", and by inserting
17 "as they existed on the day before the effective date of
18 the Act amending this clause" between "of this title" and
19 "or under section 506(c)";
- 20 (D) amending section 8927 by—
21 (i) striking out "8913, 8915, 8916, 8919, 8921, 8922, or
22 8923" in subsections (a) and (b) and inserting in place
23 thereof "8919, 8922, or 8923";
24 (ii) amending subsection (a) by inserting "as it existed
25 on the day before the effective date of the Act amending
26 this clause" after "of this title" in clauses (4) and
27 (8)(C), and by adding the following new clause:
28 "(9) For an officer appointed in the Regular Air Force after
29 the effective date of the Act adding this clause, his years of active
30 commissioned service."; and
31 (iii) amending subsection (b)(2) by striking out "or
32 (8)" and inserting in place thereof "(8), or (9)"; and
33 (E) repealing sections 3913, 3916, 3921, 8913, 8915, 8916,
34 and 8921 and by striking out the corresponding items for
35 those sections from the chapter analyses.
- 36 (17) Amending chapters 369 and 869 by amending sections
37 3962(a) and 8962(a) by inserting "or on the active-duty list" be-
38 fore the period at the end.
- 39 (18) Amending chapters 371 and 871 by—

(A) amending section 3991 (formula A) in the column headed "For sections" by striking out "3913", "3915", "3916", and "3921"; and

(B) amending section 8991 (formula A) in the column headed "For sections" by striking out "8913", "8915", "8916", and "8921".

(19) Amending chapters 401 and 901 by amending sections 4301(b) and 9301(b) by striking out "active list" and inserting in place thereof "active-duty list".

(20) Amending chapters 403 and 903 by—

(A) amending section 4333(d) by—

(i) striking out "applicable promotion list" and inserting in place thereof "active-duty list"; and

(ii) striking out "regular or temporary"; and

(B) amending sections 4336 and 9336 by—

(i) striking out "a promotion-list officer" in subsections (a) and (b) and inserting in place thereof "an officer";

(ii) striking out "promotion list" in subsections (a) and (b) and inserting in place thereof "active-duty list"; and

(iii) striking out "temporary" in subsection (c) and adding the following new sentences at the end thereof: "Appointment to the grade of lieutenant colonel or colonel under this subsection does not vacate the grade held by the officer under section 624 of this title, and, for the purposes of promotion, he shall be considered as serving in the grade held by him under section 624 of this title. If his appointment under this subsection terminates, he is entitled to resume any other grade that he may then be entitled to hold."

(21) Amending chapters 363 and 863 by—

(A) amending section 3855 by—

(i) inserting "Veterinary Corps, in the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, in the Optometry Section of the Medical Service Corps," following "Dental Corps," and

(ii) adding the following sentence at the end thereof: "An officer may be retained in an active status under the

- 1 authority of this section only to fill a bona fide existing
 2 vacancy.”; and
 3 (B) amending section 8855 by—
 4 (i) inserting “veterinary officer, optometrist, podia-
 5 trist,” following “dental officer.”; and
 6 (ii) adding the following sentence at the end thereof:
 7 “An officer may be retained in an active status under the
 8 authority of this section only to fill a bona fide existing
 9 vacancy.”.
- 10 Sec. 4. Subtitle C of title 10, United States Code, is amended by:
 11 (1) Amending chapter 501 by repealing section 5001(a) (9)
 12 and (10) and adding the following new clause:
 13 “(11) ‘Flag officer’ means an officer of the Navy serving in
 14 the grade of admiral, vice admiral, rear admiral, or commodore
 15 admiral.”.
- 16 (2) Amending chapter 507 by amending section 5064 by—
 17 (A) inserting “regular” before “officers”; and
 18 (B) inserting “-duty” after “active”.
- 19 (3) Amending chapter 509 by—
 20 (A) amending section 5081(a) by—
 21 (i) inserting “regular” before “officers”; and
 22 (ii) inserting “-duty” after “active”;
 23 (B) amending section 5085(a) by—
 24 (i) inserting “regular” before “officers”; and
 25 (ii) inserting “-duty” after “active”;
 26 (C) amending section 5086(a) by—
 27 (i) inserting “regular” before “officers”; and
 28 (ii) inserting “-duty” after “active”;
 29 (D) amending section 5087(a) by—
 30 (i) inserting “regular” before “officers”; and
 31 (ii) inserting “-duty” after “active”; and
 32 (E) amending section 5088(a) by—
 33 (i) inserting “regular” before “officers”; and
 34 (ii) inserting “-duty” after “active”.
- 35 (4) Amending chapter 513 by—
 36 (A) amending section 5133 by—
 37 (i) inserting “-duty” after “active”; and
 38 (ii) striking out the second sentence of subsection (b);
 39 (B) amending section 5137 by—

- 1 (i) inserting "regular" before "officers" and by insert-
- 2 ing "-duty" after "active" in subsection (a) ; and
- 3 (ii) striking out "An" and inserting in place thereof
- 4 "A regular", and by inserting "-duty" after "active",
- 5 in subsection (b) ;
- 6 (C) amending section 5138(a) by striking out "in the
- 7 grade of rear admiral" and inserting in place thereof "not
- 8 below the grade of commodore admiral";
- 9 (D) amending section 5139(a) by—
- 10 (i) inserting "regular" before "officers";
- 11 (ii) inserting "-duty" after "active"; and
- 12 (iii) striking out "in the Navy" and inserting in place
- 13 thereof "unless otherwise entitled to a higher rank or
- 14 grade";
- 15 (E) amending section 5140(a) by—
- 16 (i) inserting "regular" before "officers"; and
- 17 (ii) inserting "-duty" after "active";
- 18 (F) amending section 5142 by—
- 19 (i) inserting "regular" before "officers";
- 20 (ii) inserting "-duty" after "active"; and
- 21 (iii) striking out "rear" and inserting in place thereof
- 22 "commodore";
- 23 (G) repealing section 5143 and striking out the correspond-
- 24 ing item for that section from the chapter analysis;
- 25 (H) amending section 5149 by—
- 26 (i) striking out "(upper half)" in subsection (a) ;
- 27 (ii) striking out "rear admiral (lower half)" and in-
- 28 serting in place thereof "commodore admiral" in the sec-
- 29 ond and third sentences of subsection (b) ; and
- 30 (iii) amending the last sentence of subsection (b) to
- 31 read as follows: "If he is retired as a commodore admiral,
- 32 he is entitled to the retired pay of that grade, unless en-
- 33 titled to higher pay under another provision of law.";
- 34 and
- 35 (I) amending section 5150 by—
- 36 (i) inserting "regular" before "officers" in subsection
- 37 (b) ;
- 38 (ii) striking out "An" and inserting in place thereof
- 39 "A regular" in subsection (d) ; and

- 1 (iii) inserting “-duty” after “active” in subsections
- 2 (b) and (d).
- 3 (5) Amending chapter 515 by—
- 4 (A) amending section 5201(a) by—
- 5 (i) inserting “regular” before “officers”; and
- 6 (ii) inserting “-duty” after “active”;
- 7 (B) amending section 5202(a) by—
- 8 (i) striking out “An” and inserting in place thereof
- 9 “A regular”; and
- 10 (ii) inserting “-duty” after “active”; and
- 11 (C) repealing section 5206 and striking out the corre-
- 12 sponding item for that section from the chapter analysis.
- 13 (6) Amending chapter 516 by amending section 5222 by strik-
- 14 ing out “rear admiral” and inserting in place thereof “commodore
- 15 admiral”.
- 16 (7) Amending chapter 517 by—
- 17 (A) amending section 5231 by—
- 18 (i) inserting “regular” before “officers” in the first
- 19 sentence of subsection (a);
- 20 (ii) inserting “-duty” after “active” in subsection
- 21 (a);
- 22 (iii) amending subsection (b) to read as follows:
- 23 “(b) The number of officers serving in the grades of admiral and
- 24 vice admiral under subsection (a) may not, at any time, exceed 15 per-
- 25 cent of the number of flag officers serving on active duty. Of the num-
- 26 ber of officers that may serve in the grades of admiral and vice admiral
- 27 as determined under this subsection, not more than 25 percent may
- 28 have the grade of admiral.”;
- 29 (iv) repealing subsection (c); and
- 30 (v) striking out “subsections (b) and (c)” in subsec-
- 31 tions (d) and (e) and inserting in place thereof “sub-
- 32 section (b)”;
- 33 (B) amending section 5232(a) by—
- 34 (i) inserting “regular” before “officers”; and
- 35 (ii) inserting “-duty” after “active”; and
- 36 (C) amending section 5233 by—
- 37 (i) striking out “An” and inserting in place thereof
- 38 “A regular”; and
- 39 (ii) inserting “-duty” after “active”.

(8) Amending chapter 531 by repealing sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, 5416, and 5417 and striking out the corresponding items for those sections from the chapter analysis.

(9) Amending chapter 533 by—

(A) amending section 5441 by striking out “or combination of grades”;

(B) amending the language of the catchline of section 5442 and the corresponding item in the chapter analysis for that section to read as follows: “Navy: line officers on active duty; commodore admiral and rear admiral”;

(C) amending section 5442 by—

(i) amending subsection (a) to read as follows:

“(a) Of the total number of officers established under section 452 (b) of this title in the line of the Navy in the grade of ensign and above, excluding officers carried as additional numbers in grade, the number of officers who may serve in the grades of commodore admiral and rear admiral may not, except as provided in subsection (b), exceed a number appropriate to the total number set forth in the following table. If the total number of officers established under section 452(b) of this title in the line of the Navy in the grade of ensign and above, excluding officers carried as additional numbers in grade, falls between two strengths shown in the first column of the table, the number for the grades of commodore admiral and rear admiral is determined by proportionate interpolation between the respective numbers for the two strengths.

“Total line officers serving on active duty in the grade of ensign and above, excluding officers carried as additional numbers in grade	Commodore admiral and rear admiral
32,000 -----	215
40,000 -----	222
50,000 -----	228
60,000 -----	237
70,000 -----	244
80,000 -----	252
90,000 -----	259
100,000 -----	262
125,000 -----	291
150,000 -----	306
175,000 -----	323
200,000 -----	342
250,000 -----	379”;

(ii) amending subsection (b) to read as follows:

“(b) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral

1 and rear admiral combined. The number so computed for the grades
 2 combined is the number of officers on active duty, excluding officers
 3 carried as additional numbers in grade, specified for the grades com-
 4 bined. If the Secretary decides at the time of making these computa-
 5 tions that the number of officers required to meet the needs of the serv-
 6 ice in the grades of commodore admiral and rear admiral combined is
 7 less than the specified number for the grades combined, the lesser
 8 number becomes the specified number for the grades combined and the
 9 reduction may be applied as an increase in the prescribed number for
 10 any lower grade. The Secretary shall, when making the specification
 11 under this subsection, prescribe a number for the grade of rear ad-
 12 miral. The number prescribed for the grade of commodore admiral
 13 shall be the number specified in this subsection less the number pre-
 14 scribed for the grade of rear admiral.”;

15 (iii) repealing subsections (c), (d), (e), and (g);

16 (iv) amending the last sentence of subsection (i) to
 17 read as follows: “However, each officer serving under
 18 an appointment in the grade of admiral or vice admiral,
 19 and each officer serving in the grade of commodore ad-
 20 miral or rear admiral who was appointed under section
 21 5597, or promoted under section 5787, of this title, is
 22 counted in the grade he would hold had he not been so
 23 appointed or promoted.”;

24 (v) amending subsection (f) to read as follows:

25 “(f) The Secretary of the Navy, whenever the needs of the service
 26 require but at least once annually, shall specify the number of officers
 27 designated for engineering duty, aeronautical engineering duty, and
 28 special duty serving on active duty in the grades of commodore ad-
 29 miral and rear admiral combined. The number specified may not ex-
 30 ceed 13 percent of the number of officers specified in subsection (b)
 31 for the grade of commodore admiral and rear admiral combined. If
 32 the Secretary decides at the time of making these computations, that
 33 the number of officers required to meet the needs of the service in the
 34 grades of commodore admiral and rear admiral combined is less than
 35 the specified number for the grades combined as computed in this
 36 subsection, the lesser number becomes the specified number for the
 37 grades combined and the reduction may be applied as an increase in
 38 the prescribed number for any lower grade. The Secretary shall, when
 39 making the specification under this subsection, prescribe a number for
 40 the grade of rear admiral. The number prescribed for the grade of

1 commodore admiral shall be the number specified in this subsection
 2 less the number prescribed for the grade of rear admiral.”; and

3 (vi) adding a new subsection to read as follows:

4 “(j) The sum of the prescribed numbers for the grade of rear
 5 admiral in subsections (b) and (f) may not exceed 50 percent of the
 6 sum of the numbers specified under subsections (b) and (f).”;

7 (D) amending the language of the catchline of section 5443
 8 and the corresponding item in the chapter analysis for that
 9 section to read as follows: “Marine Corps: officers on active
 10 duty; brigadier general and major general”;

11 (E) amending section 5443 by—

12 (i) amending subsection (a) to read as follows:

13 “(a) Of the total number of officers established under section 452(b)
 14 of this title in the Marine Corps in the grade of second lieutenant and
 15 above, the number of officers who may serve in each of the grades above
 16 colonel may not, except as provided in subsection (b), exceed a number
 17 appropriate to the total number as set forth in the table. If the total
 18 number of officers established under section 452(b) of this title falls
 19 between two strengths shown in the first column of the table, the num-
 20 ber for the grades of brigadier general and major general is deter-
 21 mined by proportionate interpolation between the respective numbers
 22 for the two strengths.

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

23 (ii) striking out “subsection (c)” in the last sentence
 24 of subsection (b) and inserting in place thereof “section
 25 452(a) of this title”;

26 (iii) repealing subsections (c), (d), (e), and (f);

27 (iv) repealing clause (1) of subsection (g); and

28 (v) amending the last sentence of subsection (h) to
 29 read as follows: “However, each officer serving under an
 30 appointment in the grade of general or lieutenant gen-
 31 eral, and each officer serving in the grade of brigadier
 32 general or major general who was appointed under sec-

tion 5597, or promoted under section 5787, of this title, is counted in the grade he would hold had he not been so appointed or promoted.”;

(F) amending section 5444 by—

(i) amending the first sentence of subsection (a) to read as follows:

“(a) The number of officers serving on active duty in the grades of commodore admiral and rear admiral combined in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineering Corps, and the Dental Corps, respectively, excluding any flag officer serving as a Chief of Bureau, may not exceed, in each corps, a number appropriate to the total number of officers in that corps serving on active duty, as set forth in the following tables.”;

(ii) amending subsection (a) by inserting “and commodore admirals combined” after “rear admirals” in the second sentence; by inserting “and commodore admiral combined” after “rear admiral” in the third sentence; and by inserting “and commodore admirals combined” after “rear admirals” in the heading of the second column of the table for each corps.

(iii) amending subsection (c) to read as follows:

“(c) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral combined in each corps. The number so computed for the grades combined in each corps is the number of officers on active duty specified for the grades combined in the corps concerned. If the Secretary decides at the time of making these computations that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral combined for each corps is less than the specified number for the grades combined for each corps, the lesser number becomes the specified number for the grades combined for each corps and the reduction may be applied as an increase in the prescribed number for any lower grade.”;

(iv) amending subsection (d) by inserting “or commodore admiral” before “under section 5772”; and by striking out “the grade of rear admiral” before “in his corps” and inserting in place thereof “his grade”; and

(v) inserting a new subsection to read as follows:

1 “(g) The Secretary shall prescribe the number of rear admirals in
 2 each corps. The sum of these prescribed numbers of rear admirals for
 3 all the corps combined may not exceed 50 percent of the sum of the
 4 numbers specified in subsection (c). The prescribed number for the
 5 grade of commodore admiral in each corps is the number specified for
 6 that corps in subsection (c) less the prescribed number for the grade
 7 of rear admiral in that corps.”;

8 (G) amending section 5446 by—

9 (i) amending subsection (a) by inserting “regular”
 10 before “officers” and striking out “active list” and in-
 11 serting in place thereof “active-duty list”; and

12 (ii) repealing subsection (b) (1) and (2);

13 (H) amending section 5447 by—

14 (i) amending subsections (a) and (c) by inserting
 15 “regular” before “officers” and “-duty” after “active”;

16 (ii) striking out “fleet admirals and” in subsection
 17 (a);

18 (iii) amending subsection (a) (1) by striking out
 19 “—75/100 of 1 percent” after “Rear admiral” and in-
 20 serting in place thereof “—375/1000 of 1 percent”;

21 (iv) repealing subsection (a) (2)–(6);

22 (v) amending subsection (a) by adding a new subsec-
 23 tion (a) (2) to read “Commodore admiral—75/100 of 1
 24 percent less the number of rear admirals.”;

25 (vi) amending subsection (b) to read as follows:

26 “(b) The Secretary of the Navy, as of January 1 each year, shall
 27 compute the number of officers authorized under subsection (a). The
 28 number so computed is the number of regular line officers on the active-
 29 duty list, excluding officers carried as additional numbers in grade,
 30 prescribed for the grade concerned. However, the prescribed number
 31 for the grade of rear admiral may not exceed 50 percent of the number
 32 prescribed under this subsection for that grade and the grade of com-
 33 modore admiral combined.”;

34 (vii) amending subsection (c) by striking out “grade
 35 of” and inserting in place thereof “grades of commodore
 36 admiral and rear admiral combined”;

37 (viii) repealing subsections (d), (e), and (g);

38 (ix) amending subsection (f) to read as follows:

39 “(f) The number of regular officers on the active-duty list desig-
 40 nated for engineering duty, aeronautical engineering duty, and special

1 duty holding permanent appointments in the grades of rear admiral
 2 and commodore admiral combined may not exceed 13 percent of the
 3 number of regular officers prescribed for the grades of rear admiral
 4 and commodore admiral combined as computed under subsection (b).
 5 The Secretary, as of January 1 of each year, shall compute the number
 6 of regular officers authorized by this subsection to hold permanent
 7 appointments in the grades of rear admiral and commodore admiral
 8 combined. The number so computed is the specified number of regular
 9 officers on the active-duty list, restricted in the performance of duty,
 10 for the permanent grades of rear admiral and commodore admiral
 11 combined. The Secretary shall prescribe the number of rear admirals.
 12 However, the prescribed number of rear admirals may not exceed 50
 13 percent of the number specified. The prescribed number for the grade
 14 of commodore admiral will be equal to the number specified less the
 15 number prescribed for the grade of rear admiral. However, except
 16 in time of war or national emergency, the total number of regular
 17 officers on the active-duty list, restricted in the performance of duty,
 18 holding permanent appointments in the grades of rear admiral and
 19 commodore admiral combined may not exceed 19.”;

20 (x) amending subsection (i) to read as follows:

21 “(i) For the purpose of this section, each officer is counted in his
 22 permanent grade.”; and

23 (xi) amending the language of the catchline and the
 24 corresponding item in the chapter analysis for that sec-
 25 tion to read as follows: “Navy: line officers on the ac-
 26 tive-duty list; permanent grade”;

27 (I) amending section 5448 by—

28 (i) amending subsections (a) and (b) by inserting
 29 “regular” before “officers” and by inserting “-duty”
 30 after “active”;

31 (ii) repealing subsection (a) (2)-(6);

32 (iii) repealing subsections (c), (d), and (e);

33 (iv) amending subsection (g) to read as follows:

34 “(g) For the purpose of this section, each officer is counted in his
 35 permanent grade.”; and

36 (v) amending the language of the catchline and the
 37 corresponding item in the chapter analysis for that sec-
 38 tion to read as follows: “Marine Corps: officers on the
 39 active-duty list; permanent grade”;

40 (J) amending section 5449 by—

1 (i) amending subsection (a) to read as follows:

2 “(a) The number of regular officers on the active-duty list of the
3 Navy holding permanent appointments in the grades of commodore
4 admiral and rear admiral in the Medical Corps, the Supply Corps,
5 the Chaplain Corps, the Civil Engineer Corps, and the Dental Corps,
6 respectively, excluding any flag officer serving as a Chief of Bureau,
7 may not exceed, in any of those corps, 5/10 of 1 percent of the number
8 of regular officers on the active-duty list in that corps. The Secretary
9 of the Navy, whenever the needs of the service require but at least
10 once annually, shall compute the number of officers authorized under
11 this section to hold permanent appointments in the grades of commo-
12 dore admiral and rear admiral combined in each corps. The num-
13 ber so computed for each corps is the specified number of officers on
14 the active-duty list in that corps for the permanent grades of com-
15 modore admiral and rear admiral. The Secretary shall prescribe the
16 number of rear admirals in each corps. The sum of these prescribed
17 numbers of rear admirals for all the corps combined may not exceed
18 50 percent of the sum of the numbers specified. The prescribed num-
19 ber for the grade of commodore admiral in each corps is the number
20 specified for that corps less the prescribed number for the grade of
21 rear admiral in that corps. The number of officers who may hold
22 permanent appointments on the active-duty list of the Navy in the
23 grades of rear admiral and commodore admiral combined in these
24 corps, except in time of war or national emergency may not exceed—

25 “(1) 15 in the Medical Corps;

26 “(2) 13 in the Supply Corps;

27 “(3) 2 in the Chaplain Corps;

28 “(4) 4 in the Civil Engineer Corps; and

29 “(5) 4 in the Dental Corps.”;

30 (ii) amending subsection (b) by inserting “regular”
31 before “officer”; by inserting “-duty” after “active”; by
32 inserting “commodore admiral or” before “rear admiral
33 in a staff corps”; and by striking out “the permanent
34 grade of rear admiral” and inserting in place thereof
35 “in his permanent grade”;

36 (iii) amending subsection (e) to read as follows:

37 “(e) For the purpose of this section each officer is counted in his
38 permanent grade.”; and

39 (iv) amending the language of the catchline and the
40 corresponding item in the chapter analysis for that

1 section to read as follows: "Navy: staff corps officers on
2 the active-duty list; permanent grade";

3 (K) amending section 5450(a) by striking out "rear ad-
4 miral" and inserting in place thereof "commodore admiral";

5 (L) amending section 5451 by striking out "relating to
6 officers serving in grades above lieutenant in the Navy or
7 captain in the Marine Corps";

8 (M) amending section 5455 by—

9 (i) inserting "regular" before "officer";

10 (ii) inserting "-duty" after "active"; and

11 (iii) striking out "5449 or 5452" and inserting in place
12 thereof "or 5449";

13 (N) amending section 5457(a) by—

14 (i) striking out "grade of rear admiral" and inserting
15 in place thereof "grades of commodore admiral and rear
16 admiral combined"; and

17 (ii) inserting "Not more than 50 percent of the officers
18 in an active status authorized under this subsection may
19 serve in the grade of rear admiral." as a flush sentence at
20 the end; and

21 (O) repealing sections 5445 and 5452 and striking out the
22 corresponding items for those sections from the chapter
23 analysis.

24 (10) Amending chapter 535 by—

25 (A) amending section 5501 by—

26 (i) amending subsection (a) by inserting a new clause

27 (4) to read as follows: "(4) Commodore admiral.", and
28 by redesignating clauses (4) through (9) as (5) through
29 (10); and

30 (ii) repealing subsections (b) and (c);

31 (B) amending section 5504 by—

32 (i) amending the language of the catchline and the
33 corresponding item in the chapter analysis for that sec-
34 tion to read as follows: "Active-duty list: rank and pay
35 of certain rear admirals and major generals";

36 (ii) repealing subsections (a), (b), (c), (e), (h), (i),
37 and (k);

38 (iii) amending subsections (f) and (g) by striking
39 out "lineal" wherever it appears and inserting in place
40 thereof "active-duty";

1 (iv) amending subsection (g) by striking out "with
2 pay of the upper half" in the first and last sentences; and

3 (v) amending subsection (j) to read as follows:

4 "(j) A reserve officer who when ordered to active duty is excluded
5 from the active-duty list by the operation of section 641 of this title
6 shall retain his grade. The grade of a reserve officer ordered to active
7 duty and placed on the active-duty list shall be as prescribed under
8 section 620 of this title.";

9 (C) repealing section 5505 and striking out the corre-
10 sponding item for that section from the chapter analysis;

11 (D) amending section 5506 by striking out "When" and
12 inserting in place thereof "Except as provided in section 741a
13 of this title, when";

14 (E) amending the chapter analysis by striking out the
15 item relating to section 5507; and

16 (F) amending section 5508 by—

17 (i) amending subsection (a) by striking out "a lineal"
18 and inserting in place thereof "an active-duty" and by
19 striking out the last sentence; and

20 (ii) amending subsection (b) by inserting "and in sec-
21 tion 741a of this title" after "subsection (a)".

22 (11) Amending chapter 539 by—

23 (A) repealing sections 5571 and 5572 and striking out the
24 corresponding items for those sections from the chapter
25 analysis;

26 (B) amending section 5573 by—

27 (i) striking out "an" before "ensign" and inserting
28 in place thereof "a regular" in subsection (a) (1);

29 (ii) inserting "regular" before "second lieutenant" in
30 subsection (a) (2);

31 (iii) striking out "active list" wherever it appears in
32 subsection (a) and inserting in place thereof "active-duty
33 list"; and

34 (iv) repealing subsection (b);

35 (C) amending section 5573a by—

36 (i) amending subsection (a) by striking out "active
37 list" wherever it appears and inserting in place thereof
38 "active-duty list", inserting "as regular officers" after
39 "Appointments", striking out "lieutenant" and inserting

in place thereof "captain", and striking out "captain"
and inserting in place thereof "colonel";

(ii) repealing subsection (b); and

(iii) amending subsection (d) by striking out "per-
manent" in the first sentence, by striking out "active list"
and inserting in place thereof "active-duty list" in the
first sentence, and striking out the second and third
sentences;

(D) amending section 5574 by—

(i) striking out "active list" wherever it appears and
inserting in place thereof "active-duty list";

(ii) amending subsection (a) by inserting "as regular
officers" after "Original appointments", and striking out
clause (1);

(iii) amending subsections (a) and (b) by striking
out the last sentence; and

(iv) repealing subsection (d);

(E) amending section 5575 by—

(i) inserting "-duty" after "active";

(ii) repealing clause (1);

(iii) striking out "male"; and

(iv) inserting "as regular officers" after "appoint-
ments";

(F) amending section 5576 by—

(i) inserting "-duty" after "active";

(ii) repealing clause (1);

(iii) inserting "as regular officers" after "appoint-
ments";

(iv) striking out "male"; and

(v) striking out the last sentence;

(G) amending the text of section 5577 to read as follows:

"Original appointments to the active-duty list of the
Navy in the Civil Engineer Corps may be made under
chapter 33 of this title.";

(H) amending section 5578 by—

(i) inserting "-duty" after "active" in subsections (a)
and (b);

(ii) inserting "as regular officers" after "appoint-
ments" in the first sentence of subsections (a) and (b);

- 1 (iii) striking out the last sentence of subsections (a)
- 2 and (b);
- 3 (iv) repealing clause (1) of subsection (a); and
- 4 (v) repealing subsection (c);
- 5 (I) amending section 5578a by—
- 6 (i) repealing clause (1) of subsection (a);
- 7 (ii) inserting “as regular officers” after “appoint-
- 8 ments” in subsections (a) and (b);
- 9 (iii) inserting “-duty” after “active” in subsections
- 10 (a) and (b); and
- 11 (iv) striking out the last sentence of subsections (a)
- 12 and (b);
- 13 (J) amending section 5579 by—
- 14 (i) repealing clause (1) of subsection (a);
- 15 (ii) inserting “-duty” after “active” in subsection (a);
- 16 (iii) inserting “as regular officers” after “appoint-
- 17 ments” in subsections (a) and (b); and
- 18 (iv) repealing subsection (c);
- 19 (K) amending section 5580 by—
- 20 (i) amending subsection (a) to read as follows:
- 21 “(a) Original appointments as regular officers to the active-duty list
- 22 of the Navy in the Nurse Corps may be made from persons who have
- 23 physical, mental, moral, educational, and professional qualifications
- 24 satisfactory to the Secretary of the Navy.”; and
- 25 (ii) repealing subsections (b) and (c);
- 26 (L) amending section 5582 by—
- 27 (i) striking out “male” and inserting in place thereof
- 28 “regular” in subsections (a) and (b);
- 29 (ii) inserting “-duty” after “active” wherever it ap-
- 30 pears; and
- 31 (iii) striking out the last sentence of subsection (a);
- 32 (M) amending section 5587 by—
- 33 (i) amending subsection (a) to read as follows:
- 34 “(a) Persons may be originally appointed to the active-duty list in
- 35 the line of the Navy as officers designated for engineering duty, aero-
- 36 nautical engineering duty, or special duty.”;
- 37 (ii) amending subsection (b) by striking out “active
- 38 duty” and inserting in place thereof “active-duty list”;
- 39 (iii) amending subsection (c) by striking out “public
- 40 information” and inserting in place thereof “public af-

- 1 fairs", and by inserting "geophysics, cryptography,"
- 2 after "psychology,"; and
- 3 (iv) amending subsection (d) by striking out "are
- 4 additional numbers in grade. They";
- 5 (N) amending section 5587a by—
- 6 (i) inserting "regular" before "officer" and inserting
- 7 "-duty" after "active" in subsection (a); and
- 8 (ii) repealing subsection (b);
- 9 (O) amending section 5589 by—
- 10 (i) inserting "as regular officers" after "appointments"
- 11 in subsections (a) and (b);
- 12 (ii) inserting "-duty" after "active" in subsections (a)
- 13 and (b);
- 14 (iii) striking out "male" in subsections (a) and (b);
- 15 (iv) striking out "the grade of ensign" and inserting
- 16 in place thereof "a grade not above lieutenant" in sub-
- 17 section (a);
- 18 (v) striking out "the grade of second lieutenant" and
- 19 inserting in place thereof "a grade not above captain" in
- 20 subsection (b); and
- 21 (vi) striking out "10" and inserting "five" in subsection
- 22 (c);
- 23 (P) amending section 5596 by—
- 24 (i) repealing subsections (a), (b), (c), and (e);
- 25 (ii) amending subsection (d) to read as follows:
- 26 "(d) Temporary appointments in warrant officer grades and as of-
- 27 ficers designated for limited duty in grades and from sources au-
- 28 thorized under section 5589 of this title, may be made in the Regular
- 29 Navy and Regular Marine Corps by the Secretary of the Navy under
- 30 such regulations as he prescribes. Such appointments shall be made
- 31 by warrant if in the grade of warrant officer, W-1, and by commis-
- 32 sion if in a higher warrant officer grade or as an officer designated for
- 33 limited duty."; and
- 34 (iii) repealing clause (1) of subsection (g);
- 35 (Q) amending section 5597 by—
- 36 (i) repealing subsections (b), (c), and (d); and
- 37 (ii) amending subsection (e) to read as follows:
- 38 "(e) Temporary appointments under subsections (f) and (g) may
- 39 be made in grades above captain in the Navy by the President, by and
- 40 with the advice and consent of the Senate.";

(R) amending section 5600 by—

(i) amending the first sentence of subsection (a) by striking out “and lineal position,” and inserting in place thereof “, seniority in his grade, and eligibility for promotion,”; and

(ii) amending subsection (b) to read as follows:

“(b) For the purposes of this section, a person who is appointed with a view to assignment or designation in one of the officer categories requiring advanced education as a prerequisite for appointment as a commissioned officer shall, under regulations prescribed by the Secretary of Defense, be credited by the Secretary of the Navy with an amount of service in an active status that is not less than the amount of active commissioned service creditable under section 544 of this title to a regular commissioned officer of his category.”; and

(S) repealing sections 5581, 5583, 5584, 5585, 5586, 5590, 5591, 5592, 5593, 5594, 5595, and 5599 and striking out the corresponding items for those sections from the chapter analysis.

(12) Amending chapter 541 by—

(A) amending section 5665 by—

(i) striking out “lineal list” wherever it appears and inserting in place thereof “active-duty list”;

(ii) inserting “regular” after “running mate shall be the” in subsections (a) and (b);

(iii) striking out “active duty” and inserting in place thereof “active-duty list” in subsection (b);

(iv) repealing subsection (d);

(v) striking out “Except as provided in subsection (d), the” in subsections (a) and (b), and inserting “The” in place thereof; and

(vi) amending subsection (c) to read as follows:

“(c) An officer in an active status in the Naval Reserve or the Marine Corps Reserve who is assigned a running mate after the initial assignment under subsection (a) or (b) shall be assigned a running mate in accordance with regulations prescribed by the Secretary of the Navy.”; and

(B) repealing sections 5651, 5652, 5652a, 5652b, 5652c, 5653, 5654, 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, and 5666 and striking out the corresponding items for those sections from the chapter analysis.

(13) Amending chapter 543 by—

(A) amending section 5701 to read as follows and amending the item for that section in the chapter analysis to correspond to the revised catchline:

“§ 5701. Navy; line officers: promotion on the active-duty list

“(a) At least once each year, the Secretary of the Navy shall convene the following selection boards under this chapter to recommend officers in the line of the Navy for promotion on the active-duty list:

“(1) A board to recommend commodore admirals, excluding those appointed under sections 5597 and 5787 of this title and those serving in that grade as a result of a statutory appointment, for promotion to the grade of rear admiral, consisting of not less than nine officers serving in the grade of rear admiral or above.

“(2) A board to recommend captains for promotion to the grade of commodore admiral, consisting of not less than nine officers serving in the grade of commodore admiral or above.

“(b) In accordance with section 611 of this title, the Secretary of the Navy shall convene selection boards under chapter 36 of this title to recommend officers in the line of the Navy for promotion:

“(1) A board to recommend commanders for promotion to the grade of captain, consisting of not less than nine officers serving in the grade of captain or above, except that not more than 25 percent of the board membership may be composed of officers serving in the grade of captain.

“(2) A board to recommend lieutenant commanders for promotion to the grade of commander, consisting of not less than nine officers serving in the grade of commander or above, except that not more than 25 percent of the board membership may be composed of officers serving in the grade of commander.

“(3) A board to recommend lieutenants for promotion to the grade of lieutenant commander and a board to recommend lieutenants (junior grade) for promotion to the grade of lieutenant, each consisting of not less than nine officers serving in the grade of lieutenant commander or above, except that not more than 20 percent of the board membership may be composed of officers serving in the grade of lieutenant commander and not more than 25 percent of the board membership may be composed of officers serving in the grade of commander.

1 “(c) Except as provided in subsections (d) and (e), selection
2 boards convened under this chapter or chapter 36 of this title shall be
3 composed of regular officers on the active-duty list in the line of the
4 Navy not restricted in the performance of duty.

5 “(d) Except as provided in subsection (e), when officers designated
6 for engineering duty, aeronautical engineering duty, or special duty
7 are eligible for consideration by a selection board convened under this
8 chapter or chapter 36 of this title, the Secretary shall appoint, as
9 alternate members of the board, three regular officers on the active-
10 duty list of the Navy serving in the grades specified in subsection (a)
11 or (b) of the same designation and classification as any such eligible
12 officer. However, not more than one alternate member may be serving
13 in the grade immediately above the grade of the officers under con-
14 sideration by the board. If three such officers are not available, the
15 Secretary shall appoint as many as are available. Junior members of
16 the board who are not restricted in the performance of duty, in like
17 number, may not act upon the case of any officer designated for engi-
18 neering duty, aeronautical engineering duty, or special duty. No alter-
19 nate member may act upon the case of any officer who is not of the
20 same designation as himself. When a board convened under this chap-
21 ter or chapter 36 of this title consists of more than nine members, only
22 nine officers may act upon the case of any officer designated for engi-
23 neering duty, aeronautical engineering duty, or special duty; namely,
24 the three alternate members of the same designation as the officer under
25 consideration (or the lesser available number of such officers) plus the
26 number of the most senior members not restricted in the performance
27 of duty necessary to make a total of nine.

28 “(e) When officers of the Naval Reserve are eligible for considera-
29 tion by a selection board convened under this chapter or chapter 36 of
30 this title, the Secretary shall appoint an appropriate number of re-
31 serve officers, otherwise qualified under this section, as members or
32 alternate members of the board and shall appoint regular officers on
33 the active-duty list of the Navy, qualified under this section, to com-
34 plete the prescribed membership.

35 “(f) No officer may be a member of two successive boards for the
36 consideration of officers for promotion to the same grade.”;

37 (B) amending section 5702 to read as follows and amend-
38 ing the item for that section in the chapter analysis to cor-
39 respond to the revised catchline:

1 **"§ 5702. Navy; staff corps officers: promotion**

2 "(a) The Secretary of the Navy shall convene the following selec-
3 tion boards under this chapter to recommend officers of each staff
4 corps on the active-duty list for promotion:

5 "(1) A board to recommend commodore admirals, excluding
6 those appointed under sections 5597 and 5787 of this title and
7 those serving in that grade as a result of a statutory appointment,
8 for promotion to the grade of rear admiral, consisting of not less
9 than three or more than nine officers serving in the grade of rear
10 admiral or above.

11 "(2) A board to recommend captains for promotion to the
12 grade of commodore admiral, consisting of not less than three or
13 more than nine officers serving in the grade of commodore ad-
14 miral or above.

15 "(b) In accordance with section 611 of this title, the Secretary of
16 the Navy shall convene the following selection boards under chapter
17 36 of this title to recommend staff corps officers for promotion:

18 "(1) A board for each corps to recommend commanders for
19 promotion to the grade of captain, consisting of not less than six
20 officers serving in the grade of captain or above.

21 "(2) A board for each corps to recommend lieutenant com-
22 manders for promotion to the grade of commander, consisting of
23 not less than six officers serving in the grade of commander or
24 above.

25 "(3) A board for each corps to recommend lieutenants for
26 promotion to the grade of lieutenant commander and a board for
27 each corps to recommend lieutenants (junior grade) for promo-
28 tion to the grade of lieutenant, each consisting of not less than
29 six officers serving in the grade of lieutenant commander or above,
30 except that no more than one-third of the board membership may
31 be composed of officers serving in the grade of lieutenant com-
32 mander.

33 "(c) Each board convened under this chapter or chapter 36 of this
34 title to consider officers in the Medical Corps, the Judge Advocate
35 General's Corps, the Supply Corps, the Chaplain Corps, the Civil En-
36 gineer Corps, the Dental Corps, the Nurse Corps, or the Medical
37 Service Corps shall consist of officers in the corps concerned. Each
38 board convened to consider officers of the Navy designated for limited
39 duty shall consist of officers who are not officers designated for limited

1 duty. Except as provided in subsections (d) and (e), each board
 2 convened under this chapter or chapter 36 of this title shall consist
 3 of officers of the regular Navy on the active-duty list or the retired
 4 list.

5 “(d) When there is an insufficient number of staff corps officers
 6 legally and physically qualified to serve on a board convened under
 7 this chapter or chapter 36 of this title, the Secretary shall complete
 8 the minimum required membership by appointment as members of
 9 the board regular officers on the active-duty list in the line of the Navy
 10 serving in the grades prescribed in subsections (a) and (b) of this
 11 section. However, in the case of the boards considering officers in the
 12 Nurse Corps, the Secretary may complete the minimum required mem-
 13 bership by appointing as members of the board regular officers on the
 14 active-duty list of the Navy Medical Corps serving in the prescribed
 15 grades and in the case of the boards considering officers of the Medi-
 16 cal Service Corps, the Secretary may complete the minimum required
 17 membership by appointing as members of the board regular officers
 18 on the active-duty list of the Navy Medical or Dental Corps serving
 19 in the prescribed grades.

20 “(e) When officers of the Naval Reserve are eligible for considera-
 21 tion by a selection board convened under this chapter or chapter 36
 22 of this title, the Secretary shall appoint an appropriate number of
 23 reserve officers, otherwise qualified under this section, as members of
 24 the board and shall appoint officers of the Regular Navy, qualified
 25 under this section, to complete the prescribed membership.

26 “(f) No officer may be a member of two successive boards con-
 27 vened under this chapter or chapter 36 of this title for the considera-
 28 tion of officers for promotion to the same grade.”;

29 (C) amending section 5703 by—

30 (i) amending the first sentence of subsection (a) by
 31 striking out “male”, by striking out “and for continua-
 32 tion on the active list”, by striking out “and a board to
 33 recommend lieutenant colonels for promotion to the
 34 grade of colonel, each” in clause (2), and repealing
 35 clauses (3), (4), and (5);

36 (ii) amending subsection (b) by inserting “Each
 37 board convened under section 611 of this title to consider
 38 officers of the Marine Corps designated for limited duty
 39 shall consist of officers who are not officers designated for

limited duty." before "Except", and by inserting "-duty" after "active";

(iii) amending subsection (c) by striking out ", brigadier general, or colonel" and by inserting in place thereof "or brigadier general", by inserting "-duty" after "active", and by striking out "rear" and inserting in place thereof "commodore"; and

(iv) amending the language of the catchline and the corresponding item for that section in the chapter analysis to read as follows: "Marine Corps; officers: promotion";

(D) repealing section 5704 and striking out the corresponding item for that section from the chapter analysis;

(E) amending section 5706 by—

(i) amending the introductory language before clause (1) to read as follows:

"The Secretary of the Navy shall furnish the appropriate selection boards convened under this chapter or chapter 36 of this title with—";

(ii) amending clause (1) by inserting "and" after "aeronautical engineering duty,", by striking out ", and the number of line officers designated for limited duty", and by striking out "next higher grade" and inserting in place thereof "grade of commodore admiral or rear admiral";

(iii) amending clause (2) by striking out "and the number of staff corps officers designated for limited duty" and by striking out "next higher grade" and inserting in place thereof "grade of commodore admiral or rear admiral";

(iv) amending clause (3) to read as follows:

"(3) the number of officers of the Marine Corps not restricted in the performance of duty that the board may recommend for promotion to the grades of brigadier general or major general;";

(v) striking out "active list" and inserting in place thereof "active-duty list" wherever it appears in the section; and

(vi) repealing clauses (5), (6), (7), (8), and (9);

(F) amending section 5707 by—

1 (i) amending subsection (a) to read as follows:

2 “(a) Of the officers considered for promotion by a selection board
3 convened under this chapter, the board shall recommend for promo-
4 tion as appropriate—

5 “(1) those eligible officers on the active-duty list in the grade
6 of captain or above in the Navy, or colonel or above in the Marine
7 Corps, whom the board considers best fitted for promotion; or

8 “(2) those eligible officers not on the active-duty list of the
9 Navy or Marine Corps qualified for continued active duty.”;

10 (ii) repealing subsections (c) and (e);

11 (iii) amending subsection (d) by striking out “or
12 limited duty, or officers of the Marine Corps designated
13 for limited duty”, and by inserting “or” before “special
14 duty”; and

15 (iv) amending subsection (i) by inserting “regular”
16 before “officer”, by inserting “-duty” after “active” in the
17 first sentence, and by striking out “an” and inserting in
18 place thereof “a regular” in the second sentence;

19 (G) amending section 5708 by—

20 (i) amending subsection (b) by striking out “any of
21 the following categories” and inserting in place thereof
22 “grades above captain (Navy) and colonel”, by striking
23 out “subject to the limitations prescribed in section 5707
24 (c) of this title,” by striking out the colon after “higher
25 grade” and inserting a period in place thereof, and by
26 repealing clauses (1)-(7);

27 (ii) amending subsection (e) by striking out “officers
28 not on the active list of the Navy or Marine Corps” and
29 inserting in place thereof “reserve officers in grades above
30 captain (Navy) and colonel on active duty”;

31 (iii) amending subsection (g) by striking out “active
32 list” and inserting in place thereof “active-duty list”;
33 and

34 (iv) repealing subsections (c) and (d);

35 (H) amending section 5709 by—

36 (i) repealing subsection (a);

37 (ii) amending the first sentence of subsection (b) by
38 inserting “regular” before “officers”, and by inserting
39 “-duty” after “active” wherever it appears in that sub-
40 section; and

- 1 (iii) amending the language of the catchline and
- 2 corresponding item in the chapter analysis for that sec-
- 3 tion to read as follows: "Marine Corps: retention of
- 4 major generals on the active-duty list";
- 5 (I) amending section 5710 by—
- 6 (i) inserting "-duty" after "active" in subsections (a)
- 7 and (b);
- 8 (ii) amending subsection (b) by striking out "or
- 9 5704", by striking out "except as provided in subsection
- 10 (c) of this section", by inserting "or" after "5702", and
- 11 by inserting "to recommend officers for promotion to
- 12 grades above captain (Navy) and colonel" after "title";
- 13 and
- 14 (iii) repealing subsection (c); and
- 15 (J) amending section 5711 by—
- 16 (i) repealing subsection (a); and
- 17 (ii) amending subsection (c) by striking out "and
- 18 are not counted as officers serving on active duty for
- 19 the purpose of subsection (a)".
- 20 (14) Amending chapter 545 by—
- 21 (A) amending section 5751 by—
- 22 (i) amending the language of the catchline and the
- 23 corresponding item for that section in the chapter analy-
- 24 sis by striking out " , male line officers; Marine Corps,
- 25 male officers" and inserting in place thereof "and Marine
- 26 Corps; regular officers";
- 27 (ii) repealing subsections (b), (c), and (e);
- 28 (iii) amending subsection (d) to read as follows:
- 29 "(d) No regular officer of the Navy or Marine Corps who has not
- 30 lost numbers or precedence may become eligible for consideration by
- 31 a selection board that is convened under chapter 543 of this title until
- 32 all officers of his grade and competitive category senior to him on
- 33 the active-duty list are so eligible."; and
- 34 (iv) adding the following new subsection:
- 35 "(f) Officers serving in the grade of commodore admiral in the Navy
- 36 are eligible for consideration for promotion to the grade of rear ad-
- 37 miral by a selection board that is convened under chapter 543 of this
- 38 title in the fiscal year in which they complete two years of service in
- 39 the grade of commodore admiral or such later time as the Secretary of
- 40 the Navy may determine.";

(B) amending section 5756 by striking out "male" in the catchline of the section, in the corresponding item for that section in the chapter analysis, and wherever else it appears in the section;

(C) amending section 5758 by—

(i) striking out "male" in the catchline of the section and in the corresponding item for that section in the chapter analysis;

(ii) amending subsection (a) by striking out "rear admiral" in the first sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be", and by striking out "rear admiral" in the third sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be, "; and

(iii) repealing subsection (b);

(D) amending section 5761 by—

(i) striking out "grade of rear admiral" in the catchline of the section and in the corresponding item for that section in the chapter analysis and inserting in place thereof "grades of commodore admiral and rear admiral";

(ii) striking out "rear admiral" in the first sentence and inserting in place thereof "commodore admiral or rear admiral, as the case may be"; and

(iii) amending the last sentence by striking out "rear admiral" and inserting in place thereof "commodore admiral or rear admiral, as the case may be," and by inserting "or commodore admirals, as the case may be," after "captains";

(E) amending section 5764 by—

(i) striking out "; male line" in the catchline of the section and in the corresponding item for that section in the chapter analysis;

(ii) amending subsection (a) to read as follows:

"(a) When he convenes a selection board under chapter 543 of this title to consider officers for recommendation for promotion to the grade of commodore admiral, the Secretary of the Navy shall establish a promotion zone in the grade of captain for officers in the line not restricted in the performance of duty and, if numbers to select are authorized for their corps, for officers in a staff corps. The promotion

1 zone shall be composed of the most senior such officers under considera-
 2 tion, who are eligible for selection for promotion to the grade of
 3 commodore admiral and who have not previously failed of such selec-
 4 tion, that must either be selected for promotion by the particular board
 5 or be considered as having failed of such selection, in order best to
 6 assure to individuals in succeeding years equality of opportunity for
 7 promotion. The Secretary shall determine the number in the zone on
 8 the basis of a consideration of the number of vacancies estimated for
 9 the grade of commodore admiral in each of the next five years and the
 10 number of officers who will be eligible for selection in each of those
 11 years.”;

12 (iii) repealing subsections (b), (c), and (d); and

13 (iv) inserting the following new subsection:

14 “(e) Officers in a staff corps are in the promotion zone under this
 15 section when the next junior line officer on the active-duty list not re-
 16 stricted in the performance of duty is in the promotion zone.”;

17 (F) amending section 5765 by—

18 (i) amending subsection (b) to read as follows:

19 “(b) The Secretary of the Navy shall establish a promotion zone
 20 in the grade of colonel for officers of the Marine Corps not restricted
 21 in the performance of duty at the time he convenes a selection board
 22 under chapter 543 of this title to consider officers in that grade for
 23 recommendation for promotion to the grade of brigadier general. The
 24 promotion zone shall be composed of the most senior such officers
 25 under consideration, who are eligible for selection for promotion to
 26 the grade of brigadier general and who have not previously failed
 27 of such selection, that must either be selected for promotion by the
 28 particular board or be considered as having failed of such selection,
 29 in order best to assure to individuals in succeeding years equality of
 30 opportunity for promotion. The Secretary shall determine the number
 31 in the zone on the basis of a consideration of the number of vacancies
 32 estimated for the grade of brigadier general in each of the next five
 33 years and the number of officers who will be eligible for selection in
 34 each of those years.”; and

35 (ii) repealing subsections (c) and (d);

36 (G) repealing section 5766 and striking out the correspond-
 37 ing item for that section from the chapter analysis;

38 (H) amending section 5767 by—

(i) amending subsection (a) by striking out "rear admiral" and inserting in place thereof "commodore admiral or rear admiral" in the first sentence;

(ii) amending subsection (b) by striking out the last sentence; and

(iii) amending section (c) to read as follows:

"(c) In competitive categories where no officers are authorized in grades above colonel in the Marine Corps, or captain in the Navy, and whenever the Secretary determines that there is a position of sufficient importance and responsibility in one of these categories to require an incumbent in the grade of commodore admiral or brigadier general, the Secretary of the Navy may convene a selection board, to be composed and to follow procedures in general conformity with those set forth in chapter 543 of this title, to recommend for promotion an officer in the grade of captain in the Navy, or colonel in the Marine Corps, in the appropriate competitive category, who is best qualified to perform the duties of the position. An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of commodore admiral or brigadier general. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. No appointment may be made under this subsection in the competitive category of officers designated for limited duty, and in no case may more than one officer in a competitive category hold a grade to which he was promoted under this subsection.";

(I) amending section 5769 by—

(i) amending the language of the catchline and the corresponding item for that section in the chapter analysis to read as follows: "Navy and Marine Corps officers; eligibility for promotion on the active-duty list to flag and general officer grades; date of rank";

(ii) amending subsections (a) and (b) by striking out "Male officers in the line of the Navy and male" and inserting in place thereof "Officers of the Navy and";

(iii) amending subsection (a) by inserting "and competitive category" after "for the grade", and by striking out "male" in the last sentence;

(iv) amending subsection (b) by repealing clauses (2) and (4), by amending clause (3) by striking out "Cap-

1 tains" and inserting in place thereof "Officers", by strik-
 2 ing out "grade of rear admiral" and inserting in place
 3 thereof "next higher grade", by striking out the last
 4 sentence, and by adding the following new clause:

5 "(5) Officers of a staff corps whose names appear on the pro-
 6 motion list are, in the order in which their names appear, eligible
 7 for promotion to the next higher grade as a vacancy occurs in the
 8 corps concerned.";

9 (v) amending subsection (c) to read as follows:

10 "(c) An officer—

11 "(1) of the line restricted in the performance of duty, when
 12 promoted to the grade of rear admiral or commodore admiral, as
 13 the case may be, shall be assigned the date of rank of the line
 14 officer not restricted in the performance of duty next junior to him
 15 on the promotion list but, if there is no such officer, he shall be as-
 16 signed the date of rank of the line officer not restricted in the per-
 17 formance of duty next senior to him; or

18 "(2) of a staff corps, when promoted to the grade of rear
 19 admiral or commodore admiral, as the case may be, shall be as-
 20 signed the date of rank of the line officer not restricted in the
 21 performance of duty next senior to him on the promotion list but,
 22 if there is no such officer, he shall be assigned the date of rank of
 23 the line officer not restricted in the performance of duty next
 24 junior to him;

25 However, if the line officer restricted in the performance of duty or the
 26 staff corps officer is promoted to the grade of rear admiral or commo-
 27 dore admiral before the line officer whose date of rank will determine
 28 his date of rank, the line officer restricted in the performance of duty
 29 or the staff corps officer shall have as his interim date of rank, the
 30 date of occurrence of the vacancy that he was promoted to fill. Each
 31 officer, when promoted to the grade of rear admiral or commodore
 32 admiral, shall be assigned the date of rank and registered number that
 33 will give him rank in the order in which his name appears on the pro-
 34 motion list for that grade."; and

35 (vi) adding the following new subsections:

36 "(e) Notwithstanding subsection (c), if a selection board for the
 37 grade of commodore admiral or rear admiral in a staff corps is not con-
 38 vened between the dates of convening of two or more line selection
 39 boards for that grade, a staff corps officer promoted to the grade of
 40 commodore admiral or rear admiral shall have assigned to him as his

1 date of rank, the date assigned to the junior commodore admiral or
 2 rear admiral, as appropriate, who is not restricted in the performance
 3 of duty on the active-duty list who—

4 “(1) was recommended for promotion by the line selection
 5 board immediately following the last selection board in the staff
 6 corps concerned; and

7 “(2) was senior to the staff corps officer on the active-duty list
 8 at the time that the last selection board was convened.

9 “(f) An officer of the Marine Corps when promoted to the grade
 10 of brigadier general or major general, shall be assigned the date of
 11 rank and registered number that will give him rank in the order in
 12 which his name appeared on the promotion list for that grade.”;

13 (J) amending section 5776 by—

14 (i) amending subsection (a) by striking out “in the
 15 line”;

16 (ii) amending subsection (b) to read as follows:

17 “(b) An officer of the Navy serving in the grade of commodore ad-
 18 miral and officers in the line of the Navy restricted in the performance
 19 of duty serving in the grade of captain, who are eligible for considera-
 20 tion for promotion by a selection board convened under chapter 543 of
 21 this title, who are not selected for promotion are not considered as
 22 having failed of selection.”; and

23 (iii) repealing subsection (c);

24 (K) amending section 5778 by striking out the first sen-
 25 tence and by striking out “other” in the second sentence;

26 (L) amending section 5780 by—

27 (i) striking out “male” in the catchline of the section
 28 and in the corresponding item for that section in the
 29 chapter analysis;

30 (ii) amending subsection (a) by striking out “any
 31 grade” and inserting in place thereof “the grade of com-
 32 modore admiral or rear admiral”, and by inserting
 33 “-duty” after “active”;

34 (iii) amending subsection (b) by striking out “any
 35 grade” and inserting in place thereof “the grade of brig-
 36 adier general or major general”, and by inserting “-duty”
 37 after “active”;

38 (iv) repealing subsection (c); and

39 (v) amending subsection (d) by striking out “lineal”
 40 and inserting in place thereof “active-duty list”;

1 (M) amending section 5781 by—

2 (i) striking out “rear admiral” in the catchline of the
3 section and the corresponding item for that section in the
4 chapter analysis and inserting in place thereof “rear ad-
5 miral and commodore admiral”;

6 (ii) amending subsection (a) to read as follows:

7 “(a) The President may fill vacancies in the grade of commodore
8 admiral or rear admiral in any staff corps of the Regular Navy, as
9 provided under section 5449 of this title, by making permanent ap-
10 pointments in—

11 “(1) the grade of commodore admiral from officers on the ac-
12 tive-duty list in the corps concerned who, under the preceding sec-
13 tions of this chapter, have been temporarily promoted to that
14 grade or are on the promotion list to that grade; or

15 “(2) the grade of rear admiral from officers on the active-duty
16 list in the corps concerned who, under the preceding sections of
17 this chapter, have been temporarily promoted to that grade or are
18 on the promotion list to that grade.”;

19 (iii) amending subsection (b) to read as follows:

20 “(b) Officers shall be permanently appointed under this section in
21 the order of their active-duty list position or, if they have not been
22 temporarily appointed in the grade to which the permanent appoint-
23 ment is to be made, in the order in which their names appear on the
24 promotion list for temporary promotion to the grade concerned.”; and

25 (iv) amending subsection (c) to read as follows:

26 “(c) Each officer permanently promoted to the grade of commodore
27 admiral or rear admiral under this section shall be assigned the date of
28 rank that will give him rank in the order in which his name appeared
29 on the promotion list for the grade concerned.”;

30 (N) amending section 5783 by—

31 (i) amending subsection (a) by amending the first
32 sentence to read as follows: “Permanent appointments
33 may be made in the grade of commodore admiral or rear
34 admiral in the Naval Reserve from officers holding per-
35 manent appointments in the grade of captain or above in
36 the Naval Reserve who are on active duty and who—

37 “(1) have been temporarily promoted to the grade
38 of commodore admiral or rear admiral under the
39 preceding sections of this chapter; or

“(2) are on the promotion list for promotion to the grade of commodore admiral or rear admiral under the preceding sections of this chapter.”; and by amending the second sentence by striking out “in the line” after “An officer”, by striking out “a grade” and inserting in place thereof “the grade of commodore admiral or rear admiral”, by striking out “male line” before “officers”, and by inserting “-duty” after “active”;

(ii) amending subsection (b) by amending the first sentence by striking out “any grade” and inserting in place thereof “the grade of brigadier general or major general” and by striking out “second lieutenant” and inserting in place thereof “colonel”; and by amending the second sentence by striking out “a grade” and inserting in place thereof “the grade of brigadier general or major general”, by striking out “male” before “officers”, and by inserting “-duty” after “active”; and

(iii) repealing subsection (c);

(O) amending section 5785 by—

(i) repealing subsection (a); and

(ii) amending subsection (b) by striking out “, other than women officers appointed under section 5590 of this title”;

(P) amending section 5786(b) by striking out “sections 5784 and” and inserting in place thereof “section”;

(Q) amending section 5787 by—

(i) amending subsection (b) by striking out “ensign” and inserting in place thereof “captain” and by striking out “second lieutenant” and inserting in place thereof “colonel”;

(ii) repealing subsection (d);

(iii) amending subsection (e) by striking out the second sentence, and by striking out “alone” in the last sentence and inserting in place thereof “, by and with the advice and consent of the Senate”; and

(iv) amending subsection (f) by striking out “lieutenant” and inserting in place thereof “commodore admiral”, by striking out “captain” and inserting in place

1 thereof "brigadier general", and by striking out the last
2 sentence;

3 (R) amending section 5787c to read as follows and amend-
4 ing the item for that section in the chapter analysis to
5 correspond with the revised catchline:

6 **"§ 5787c. Navy and Marine Corps; warrant officers and officers**
7 **designated for limited duty: temporary promotions**

8 "(a) Warrant officers may be temporarily promoted to higher war-
9 rant officer grades under such regulations as the Secretary of the Navy
10 may prescribe.

11 "(b) Officers designated for limited duty may be temporarily pro-
12 moted to a higher grade under such regulations as the Secretary of the
13 Navy may prescribe.";

14 (S) amending section 5791(b) by striking out "sections
15 5787 and 5790" and inserting in place thereof "section 5787";
16 and

17 (T) repealing sections 5752, 5753, 5757, 5760, 5762, 5763,
18 5768, 5770, 5771, 5772, 5773, 5782, 5784, 5787a, 5787b, 5788,
19 5789, 5790, and 5793 and striking out the corresponding items
20 for those sections from the chapter analysis.

21 (15) Repealing chapter 547 and striking out the corresponding
22 item from the chapter analysis of subtitle C and the chapter
23 analysis of part II.

24 (16) Amending chapter 549 by—

25 (A) amending section 5891 by—

26 (i) amending subsection (b) by striking out "a lineal
27 list maintained under section 5504" and inserting in place
28 thereof "the active-duty list maintained under section
29 620";

30 (ii) amending subsection (c) by striking out "chapter
31 543" and inserting in place thereof "chapter 36 or 543",
32 and by striking out "a lineal list" and inserting in place
33 thereof "the active-duty list";

34 (iii) amending subsection (d) by striking out "a lineal
35 list" wherever it appears and inserting in place thereof
36 "the active-duty list";

37 (iv) amending subsections (e) and (f) by striking out
38 "chapter 543" and inserting in place thereof "chapter 36
39 or 543", and by striking out "the lineal list" and "a lineal

list" wherever they appear and inserting in place thereof
"the active-duty list"; and

(v) repealing subsection (g);

(B) amending section 5892 by striking out "prescribed for
line and staff corps officers on the active list of the Navy" and
inserting in place thereof "established by the Secretary for
regular line and staff corps officers on the active-duty list
under other provisions of this title";

(C) amending section 5896 by—

(i) amending subsection (a) (3) by striking out "and
eligible women officers appointed under section 5581 of this
title";

(ii) amending subsection (a) (4) by striking out "and
women officers appointed under section 5581 of this title";

(iii) amending subsection (a) (7) and (8) by striking
out "and officers appointed under section 5581 of this
title"; and

(iv) amending subsection (b) by striking out "or an
officer appointed under section 5581 of this title";

(D) amending section 5897 by—

(i) amending subsections (b) (6) and (d) (1) by strik-
ing out "and officers appointed under section 5581 of this
title" before the period at the end thereof; and

(ii) amending subsection (c) (1) by striking out ", and
women officers appointed under section 5581 of this
title,";

(E) amending section 5898(b) by striking out "or an offi-
cer appointed under section 5581 of this title";

(F) amending section 5899 by—

(i) amending subsection (a) by striking out ", or a
woman officer appointed under section 5581 of this
title,";

(ii) amending subsection (a) by inserting "or above"
after "captain" in the second sentence;

(iii) amending subsection (c) by striking out "or an
officer appointed under section 5581 of this title";

(iv) amending subsections (a) and (c) by inserting
"622 or" before "5764";

(v) amending subsections (b) and (e) by inserting
"622 or" before "5765", and by striking out "lineal list"

- 1 and inserting in place thereof "active-duty list"; and
 2 (vi) amending subsection (e) by inserting "611 or"
 3 before "5702";
 4 (G) amending section 5901 by inserting "623 and" before
 5 "5756-5763";
 6 (H) amending section 5902 (b) and (c) by inserting "36
 7 or" before "545"; and
 8 (I) amending section 5905(c) by striking out "lineal rank
 9 and".
 10 (17) Amending chapter 553 by striking out "active list" and
 11 inserting in place thereof "active-duty list" in section 5982(c).
 12 (18) Amending chapter 555 by repealing section 6018 and strik-
 13 ing out the corresponding item for that section from the chapter
 14 analysis.
 15 (19) Amending chapter 573 by—
 16 (A) inserting the following new section and inserting a
 17 corresponding new item for that section in the chapter
 18 analysis:
 19 **"§ 6372a. Regular Navy: commodore admiral and rear admiral:**
 20 **retirement for length of service**
 21 "(a) Each officer of the Regular Navy, serving in the grade of com-
 22 modore admiral, who is not on a list of officers recommended for pro-
 23 motion to a higher grade shall, if not earlier retired, be retired on the
 24 first day of the month following the month in which he completes 30
 25 years of service as computed under section 6387 of this title or the
 26 first day of the month following the month in which he completes
 27 five years in grade, whichever is later.
 28 "(b) Each officer of the Regular Navy, serving in the grade of rear
 29 admiral shall, if not earlier retired, be retired on the first day of the
 30 month following the month in which he completes 35 years of service
 31 as computed under section 6387 of this title or the first day of the
 32 month following the month in which he completes five years in grade,
 33 whichever is later. However, the Secretary of the Navy may defer
 34 for a specified time the retirement under this section of any rear
 35 admiral, as limited by the provisions of section 6390 of this title.
 36 "(c) For the purposes of this section, an officer's service in grade is
 37 computed from the date of the occurrence of the vacancy that he was
 38 promoted to fill";
 39 (B) amending section 6373 by striking out "total", by
 40 striking out "active list" wherever it appears and inserting

1 in place thereof "active-duty list", and by amending the catch-
 2 line and the corresponding item for that section in the chap-
 3 ter analysis by striking out "active list" and inserting in
 4 place thereof "active-duty list";

5 (C) amending section 6374 by striking out "active list"
 6 wherever it appears and inserting in place thereof "active-
 7 duty list";

8 (D) amending section 6383 by—

9 (i) amending subsection (a) by striking out "active
 10 list" and inserting in place thereof "active-duty list";

11 (ii) amending subsection (b) to read as follows:

12 "(b) Each regular officer on the active-duty list designated for
 13 limited duty whose name is not on a limited-duty officer promotion list
 14 who is serving in the grade of lieutenant commander or commander
 15 in the Navy or serving in the grade of major or lieutenant colonel in
 16 the Marine Corps shall be retired on the first day of the seventh month
 17 following the month in which he is considered as having twice failed
 18 of selection for promotion to the next higher grade.";

19 (iii) amending subsection (d) to read as follows:

20 "(d) Each regular officer on the active-duty list designated for
 21 limited duty whose name is not on a list of officers recommended for
 22 promotion who is serving in the grade of lieutenant in the Navy or
 23 serving in the grade of captain in the Marine Corps shall be honorably
 24 discharged on the first day of the seventh month following the month
 25 in which he is considered as having twice failed of selection for pro-
 26 motion to the grade of lieutenant commander or major.";

27 (iv) amending subsection (e) to read as follows:

28 "(e) Each regular officer on the active-duty list of the Navy or the
 29 Marine Corps designated for limited duty whose name is not on a list
 30 of officers recommended for promotion who is serving in the grade of
 31 ensign or second lieutenant, or lieutenant (junior grade) or first lie-
 32 tenant, shall be honorably discharged on the first day of the seventh
 33 month following the month in which he was found not qualified for
 34 promotion in the case of an ensign or second lieutenant or is con-
 35 sidered as having twice failed of selection for promotion to the grade
 36 of lieutenant (Navy) or captain (Marine Corps).";

37 (v) repealing subsection (f);

38 (vi) amending subsection (g) by striking out "retire-
 39 ment or" in the first sentence, and by striking out "retired
 40 or" in the first and second sentences;

1 (vii) adding the following new subsection :

2 “(i) An officer discharged under this section is entitled, if eligible
3 therefor, to separation pay under section 1173a of this title.”; and

4 (viii) striking out “or severance” in the catchline and
5 in the corresponding item for that section in the chapter
6 analysis;

7 (E) amending section 6384 by—

8 (i) amending subsection (a) by inserting “36 or”
9 after “chapter”;

10 (ii) amending subsection (b) to read as follows:

11 “(b) Each officer on the active-duty list of the Navy and the Marine
12 Corps whose name is reported under this section shall, subject to
13 subsection (d), be honorably discharged from the naval service on
14 June 30 of the fiscal year in which his name is reported, with, if eligible
15 therefor, separation pay under section 1173a of this title.”;

16 (iii) repealing subsection (c) ; and

17 (iv) striking out “; severance pay” in the catchline
18 and in the corresponding item for that section in the
19 chapter analysis;

20 (F) amending section 6386 by repealing subsections (a)
21 and (b) ;

22 (G) amending section 6387 to read as follows and amend-
23 ing the corresponding item for that section in the chapter
24 analysis to correspond to the revised catchline :

25 **“§ 6387. Regular Navy and Regular Marine Corps officers: compu-**
26 **tation of total commissioned service**

27 “For the purposes of computing years of service for eligibility
28 for consideration for continuation or retirement under section 6372a
29 of this title, the years of service which an officer had as computed under
30 section 637 of this title at the time he was promoted to commodore
31 admiral in the Navy or brigadier general in the Marine Corps shall
32 be added to the years of active commissioned service that he has
33 served since he was promoted to commodore admiral in the Navy or
34 brigadier general in the Marine Corps. Where an officer has not been on
35 continuous active duty since he was promoted to commodore admiral
36 or brigadier general, such time as he was not on active duty shall be
37 counted for purposes of this section as shall be specified in regulations
38 prescribed by the Secretary of the Navy.”;

39 (H) amending section 6389 by—

(i) amending subsection (b) by striking out "subsection (a)" in the first sentence and inserting in place thereof "subsection (a) or (f)";

(ii) amending the second sentence of subsection (d) to read as follows: "Each other officer is considered to have for this purpose as much total commissioned service as the years of service computed under section 637 of this title of any officer on the active-duty list of the Navy not restricted in the performance of duty, or any officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as ensign on the active duty list of the Navy or as second lieutenant on the active-duty list of the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer."; and

(iii) amending subsection (e) to read as follows:

"(e) This section does not apply to female reserve officers or to reserve officers in the Nurse Corps.";

(iv) inserting the following new subsection:

"(f) An officer in an active status in the Naval Reserve serving in the grade of commodore admiral shall be eliminated from active status if he is not on a promotion list to the next higher grade, has 30 years of total commissioned service, and has served five years in grade. An officer in an active status in the Naval Reserve serving in the grade of rear admiral shall be eliminated from active status if he has 35 years of total commissioned service, and has served five years in grade.";

(I) amending section 6390(a) to read as follows:

"(a) Each officer on the active-duty list of the Navy or of the Marine Corps serving in the grade of admiral or general or below shall be retired by the President when he becomes 62 years of age unless the President defers his retirement.";

(J) amending section 6394 by—

(i) amending the language of the catchline and the corresponding item for that section in the analysis of chapter 573 by striking out "commodores" and inserting in place thereof "commodore admirals";

(ii) striking out "active list" wherever it appears and inserting in place thereof "active-duty list";

(iii) amending subsection (a) by inserting "admiral" after "commodore";

(iv) amending subsection (a) by inserting after the last sentence "The Secretary may instruct a board convened under chapter 543 to perform the functions of a board under this section with respect to any officer of the Navy subject to the provisions of this section."; and

(v) amending subsection (b) to read as follows:

"(b) Each board convened under this section to consider and recommend rear admirals or commodore admirals for retirement shall be composed of not less than five officers on the active-duty list of the Navy serving in grades above all officers under consideration. However, officers on the active-duty list in any staff corps, who are senior in rank to all officers under consideration, may be detailed as members of any such board to consider and recommend officers of the staff corps for retirement.";

(K) amending section 6397(a) to read as follows:

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

(L) amending section 6403 by—

(i) amending subsections (a) and (b) by inserting "or chapter 36 of this title" after "chapter", and by striking out "active list" and inserting in place thereof "active-duty list"; and

(ii) amending subsection (a) by inserting "regular" after "woman line", and by striking out "or an officer appointed under section 5581 of this title";

(M) amending section 6404 by—

(i) striking out "and lump-sum payments on discharge" after "retired pay"; and

(ii) striking out "and severance pay" in the catchline and in the corresponding item in the chapter analysis.

(N) amending the first sentence of section 6407 by inserting "regular" before "officer" and by inserting "-duty" after "active"; and

(O) repealing sections 6371, 6372, 6376, 6377, 6378, 6379, 6380, 6382, 6388, 6392, 6395, 6396, 6398, 6400, 6401, and 6402

1 and striking out the corresponding items for those sections
2 from the chapter analysis.

3 (20) Amending chapter 575 by amending section 6487 by—

4 (A) amending the language of the catchline and the cor-
5 responding item for that section in the chapter analysis by
6 striking out “rear” and inserting in place thereof “commo-
7 dore”; and

8 (B) striking out “rear” after “grade of” and inserting in
9 place thereof “commodore”; by striking out “who is entitled
10 to the pay of the lower half of that grade, and”; and by strik-
11 ing out “in the upper half of that grade”.

12 (21) Amending chapter 601 by—

13 (A) amending section 6909 by inserting “-duty” after
14 “active” wherever it appears, by inserting “as a regular offi-
15 cer” after “appointments”, and by striking out “male”;

16 (B) amending section 6911 by striking out “male” wher-
17 ever it appears; and

18 (C) repealing section 6914 and striking out the correspond-
19 ing item from the chapter analysis.

20 (22) Amending chapter 605 by amending section 7042(a)
21 by striking out “an” before “officer” and inserting in place thereof
22 “a regular”, and by inserting “-duty” after “active”.

23 SEC. 5. Title 32, United States Code, is amended by amending
24 section 101(12) by striking out “active list” and inserting in place
25 thereof “active-duty list”.

26 SEC. 6. Title 37, United States Code, is amended by:

27 (1) Amending section 101(18) by striking out “active list”
28 and inserting in place thereof “active-duty list”.

29 (2) Amending the table in section 201(a) by—

30 (A) striking out “Environmental Science Services Admin-
31 istration” and inserting in place thereof “National Oceanic
32 and Atmospheric Administration” in the heading of the
33 third column;

34 (B) striking out “Rear admiral (upper half)” in the
35 third column and inserting in place thereof “Rear admiral
36 (Navy) and Rear admiral (upper half) (Coast Guard and
37 National Oceanic and Atmospheric Administration)”; and

38 (C) striking out “Rear admiral (lower half) and
39 Commodore” in the third column and inserting in place

1 thereof "Commodore admiral (Navy) and Rear admiral
2 (lower half) (Coast Guard and National Oceanic and
3 Atmospheric Administration)".

4 (3) Amending section 202 by—

5 (A) repealing subsections (a) through (d) ;

6 (B) amending subsection (e) to read as follows:

7 " (e) An officer of the—

8 "(1) Navy holding a permanent appointment in the grade of
9 commodore admiral on the retired list; or

10 "(2) Coast Guard holding a permanent appointment in the
11 grade of rear admiral on the retired list who is entitled to the
12 basic pay of a rear admiral of the lower half;

13 who, in time of war or national emergency, has served satisfactorily
14 on active duty for two years in that grade or in a higher grade is
15 entitled when on active duty to the basic pay of pay grade O-8.";

16 (C) striking out "of the upper half" in subsection (h) ;

17 (D) striking out "active list" and inserting in place thereof
18 "active-duty list", by striking out "of the upper half", and
19 by inserting "or commodore admiral" after "grade of rear
20 admiral" in subsection (j) ;

21 (E) striking out "a woman" and inserting in place thereof
22 "an" and by striking out "rear admiral of the lower half"
23 and inserting in place thereof "commodore admiral", in sub-
24 section (k) ; and

25 (F) amending the language of the catchline of section 202,
26 and the corresponding item for that section in the analysis
27 of chapter 3, by striking out "of upper half".

28 (4) Amending section 205 by—

29 (A) amending subsection (a) by repealing clauses (7)
30 and (8) ;

31 (B) amending subsection (b) by striking out the second
32 sentence; and

33 (C) repealing subsection (c).

34 (5) Amending sections 302 (last sentence), 302a(b), 302b
35 (last sentence), and 303(b) by inserting "separation pay," before
36 "or severance pay".

37 (6) Amending section 406 by amending subsections (d) (2)
38 and (g) (2) by inserting "separation pay or" before both "sever-
39 ance pay" and "readjustment pay".

40 (7) Amending section 904 by—

- 1 (A) striking out "male" wherever it appears;
- 2 (B) inserting "above the grade of captain (Navy) or
- 3 colonel" after "an officer" in subsection (a);
- 4 (C) amending subsection (a) (2) by inserting "or commo-
- 5 dore admiral" after "rear admiral";
- 6 (D) amending subsection (a) (11) by inserting "or com-
- 7 modore admiral" after "rear admiral";
- 8 (E) inserting "above the grade of captain" after "line
- 9 officer" in subsection (b);
- 10 (F) repealing clauses (3), (4), (5), (9), and (10) of
- 11 subsection (a); and
- 12 (G) repealing subsection (d).

13 (8) Amending section 905 by repealing subsections (d), (e),
 14 and (g), and by amending subsection (b) by striking out the last
 15 sentence thereof.

16 (9) Inserting the following new section and a corresponding
 17 item for that section in the chapter analysis:

18 **"§ 908. Officers of the Army, Navy, Air Force, or Marine Corps**
 19 **promoted under chapter 36 of title 10: effective date of**
 20 **beginning of pay and allowances**

21 "An officer of the Army, Navy, Air Force, or Marine Corps who is
 22 promoted under section 624(a) of title 10 is entitled to the pay and
 23 allowances of the grade to which promoted from the date the promo-
 24 tion is made. An officer promoted under section 624(b) of title 10 is
 25 entitled to the pay and allowances of the grade to which promoted
 26 from the first day of the month following the date of the occurrence of
 27 the vacancy that he was promoted to fill."

28 SEC. 7. Section 6 of the Act of March 31, 1947, ch. 26 (50 U.S.C.
 29 App. 326(d)) is amended by striking out "active" and inserting in
 30 place thereof "active-duty list".

31 SEC. 8. Section 10(b) (4) of the Act of June 24, 1948, ch. 625, as
 32 amended (50 U.S.C. App. 460(b) (4)), is amended by striking out
 33 "active" and inserting in place thereof "active-duty list".

34 SEC. 9. Notwithstanding any other provision of this Act:

- 35 (1) Reserve commissioned officers of the Army, Navy, Air
- 36 Force, or Marine Corps, and officers appointed under section 5596
- 37 of title 10, United States Code, except officers designated for lim-
- 38 ited duty, on active duty on the effective date of this Act, other
- 39 than those excluded under section 641 of title 10, United States
- 40 Code, who have completed nine or more years of active commis-

1 sioned service, may be appointed as regular officers within two
 2 years from the effective date of this Act, or by September 30, 1979,
 3 whichever is later.

4 (2) Under regulations prescribed by the Secretary of the mili-
 5 tary department concerned, if an officer described in clause (1) of
 6 this section is not qualified, not selected for appointment as a
 7 regular officer, or declines his appointment, he shall be released
 8 from active duty on such date as the Secretary concerned may
 9 determine, but not later than the earliest of the following dates—

10 (A) two years from the effective date of this Act;

11 (B) the date of expiration of his commitment under a
 12 written agreement concluded under section 679 of title 10,
 13 United States Code; or

14 (C) the date the officer requests and the Secretary approves.

15 (3) Depending on the needs of the service, an officer serving on
 16 active duty on the effective date of this Act, who is not qualified
 17 for an appointment as a regular officer, may have any disqualifica-
 18 tion waived by the Secretary of the military department con-
 19 cerned and be appointed as a regular officer in the grade in which
 20 serving.

21 However, unless sooner retired or separated under another provision
 22 of law, an officer who is within two years of qualifying for retirement
 23 under section 3911, 6323, or 8911 of title 10, United States Code, shall
 24 be retained on active duty until he is qualified for retirement.

25 SEC. 10. Notwithstanding any other provision of this Act:

26 (1) An officer of the Army or Air Force serving in a regular
 27 grade who has been recommended for promotion to a temporary
 28 or permanent grade below brigadier general or a reserve officer
 29 who has been recommended for promotion to a temporary grade
 30 below brigadier general in the Army or Air Force in an approved
 31 report of a board of officers convened for that purpose under laws
 32 in effect on the day before the effective date of this Act, if not ear-
 33 lier promoted to the grade for which he was recommended, shall be
 34 placed on a promotion list in order of his seniority on the active-
 35 duty list established by this Act, and shall be considered to have
 36 been so recommended for promotion in an approved report of a
 37 selection board convened under this Act.

(2) An officer of the Army or Air Force who has the regular grade of first lieutenant, captain, or major, who was considered once but not recommended for promotion to the next higher regular grade by a selection board convened under the laws in effect on the day before the effective date of this Act, shall, within one year from the effective date of this Act, be considered again by a selection board for promotion to the next higher grade. If he is not recommended for promotion by the board again considering him, he shall be retired and entitled to retired pay or honorably discharged, as the case may be, under the laws in effect on the day before the effective date of this Act. However, an officer who is discharged is entitled, at his election, to—

(A) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act; or

(B) if qualified, the separation payment as provided by section 1173a of title 10, United States Code.

If he is recommended for promotion by that board and is serving in his regular grade, he shall be considered to have been so recommended for promotion to the next higher grade in an approved report of a selection board convened under this Act. However, if he is recommended for promotion by the board again considering him and is serving in a higher grade than his regular grade under the laws in effect on the day before the effective date of this Act, his status shall be as prescribed in clause (5) of this section.

(3) An officer of the Army or Air Force who has a regular grade below colonel, or a reserve officer other than one specified in section 641 of title 10, United States Code, who was considered but not recommended for promotion under laws in effect on the day before the effective date of this Act to a temporary grade below brigadier general that is higher than the grade in which he is serving, shall be considered to have once failed of selection for promotion under chapter 36 of title 10, United States Code.

(4) An officer of the Army or Air Force who has the regular grade of first lieutenant, captain, or major, who has twice failed of selection for promotion to the next higher regular grade under the laws in effect on the day before the effective date of this Act,

1 shall be retired and entitled to retired pay, or honorably dis-
 2 charged, as the case may be, under the laws in effect on the day
 3 before the effective date of this Act. However, an officer who is
 4 discharged is entitled, at his election, to—

5 (A) the severance pay to which he would have been en-
 6 titled under the laws in effect before the effective date of
 7 this Act; or

8 (B) if qualified, the separation payment as provided by
 9 section 1173a of title 10, United States Code.

10 (5) An officer of the Army or Air Force who, on the day be-
 11 fore the effective date of this Act, was serving in a temporary
 12 grade below brigadier general which is higher than his regular
 13 grade shall be considered to have been recommended for pro-
 14 motion to that grade under chapter 36 of title 10, United States
 15 Code. However, such an officer who is also subject to the provi-
 16 sions of clause (2) of this section shall be retired or discharged,
 17 as appropriate, if he is not recommended for promotion under
 18 that clause.

19 (6) An officer on the active-duty list of the Navy or Marine
 20 Corps who, on the effective date of this Act, is recommended for
 21 or is serving under a temporary appointment in a grade below
 22 commodore admiral or brigadier general which is higher than
 23 his permanent grade, shall be considered to have been so recom-
 24 mended for or promoted to the higher grade under chapter 36
 25 of title 10, United States Code. This clause does not apply to—

26 (A) an officer serving under a temporary appointment
 27 which, by its terms, is limited in duration; and

28 (B) an officer designated for limited duty in a grade to
 29 which he was appointed under section 5596 of title 10,
 30 United States Code, or who has been recommended for pro-
 31 motion or promoted under section 5787 of that title.

32 (7) An officer of the Navy or Marine Corps who was con-
 33 sidered to have failed of selection for promotion to a grade below
 34 commodore admiral or brigadier general one or more times under
 35 laws in effect the day before the effective date of this Act shall
 36 be subject to the provisions of this Act as if such failure or fail-
 37 ures had occurred under this Act.

38 (8) An officer of the Army, Navy, Air Force, or Marine Corps,
 39 recommended for continuation on the active list under the Act
 40 of August 11, 1959, Public Law 86-155 (73 Stat. 333), as amended

(74 Stat. 396), or section 10 of the Act of July 12, 1960, Public Law 86-616 (74 Stat. 395), shall not be subject to the continuation provisions of this Act.

(9) An officer of the Army or Air Force who, on the day before the effective date of this Act, was serving in or recommended for promotion to, the temporary grade of brigadier general or higher, and held a regular grade below colonel, shall be considered to have been recommended for promotion to colonel under chapter 36 of title 10, United States Code.

(10) An officer who—

(A) on the effective date of this Act, is either serving in the grade of lieutenant colonel or commander or colonel or captain (Navy), or is on a promotion list to one of those grades;

(B) is not recommended for promotion to a higher grade after the effective date of this Act; and

(C) is considered but not selected for continuation on active duty under section 634 of title 10, United States Code; is entitled to a lump-sum payment of \$4,000.

(11) The enactment of this Act does not terminate the appointment of any officer. For the purpose of determining the amount of service that an officer has in a particular grade, there shall be counted all service in that grade before, on, and after the effective date of this Act that would be creditable under the provisions of this Act.

(12) An officer of the Army, Navy, Air Force, or Marine Corps, who on the effective date of this Act is serving under a temporary appointment and also has a permanent status as an enlisted member or a warrant officer, and who on or after the effective date of this Act—

(A) has not completed 10 years of commissioned service for retirement eligibility under section 3911, 6323, or 8911 of title 10, United States Code; and

(B) becomes eligible for retirement under any other provision of law; is entitled to retire in the highest permanent grade he held as an enlisted member or a warrant officer, as the case may be, prior to the effective date of this Act.

Sec. 11. Not later than six months after the effective date of this Act, an officer of the Army, Navy, Air Force, or Marine Corps shall

1 be placed on an active-duty list under regulations prescribed by the
 2 Secretary of the military department concerned under section 620 of
 3 title 10, United States Code, in the same relative seniority which he
 4 held on the day before the effective date of this Act. However, such
 5 an officer is considered to have been placed on the active-duty list as
 6 of the effective date of this Act.

7 SEC. 12. Notwithstanding any other provision of this Act, except
 8 an officer who is excluded under section 641 of title 10, United States
 9 Code, a regular officer of the Army, Navy, Air Force, or Marine Corps
 10 on active duty on the effective date of this Act shall be subject to the
 11 provisions of this Act concerning promotion, selective continuation,
 12 years of active commissioned service, and separation or retirement,
 13 except:

14 (1) An Army or Air Force officer who is serving in, or is on a
 15 recommended list of officers selected for promotion to, the regular
 16 grade of major, except an officer serving in a higher temporary
 17 grade, shall, unless separated or retired under another provision
 18 of law, or later promoted under the provisions of this Act, be re-
 19 tained on active duty until he completes 21 years of service as
 20 computed under section 3927(a) or 8927(a) of title 10, United
 21 States Code, as they existed on the day before the effective date of
 22 this Act, and then retired under the provisions of section 3913
 23 or 8913 of that title, as they existed on the day before the effective
 24 date of this Act, on the first day of the month following the month
 25 in which he completes that service.

26 (2) An Army or Air Force officer who is serving in, or is on a
 27 recommended list of officers selected for promotion to, the regular
 28 grade of lieutenant colonel, except an officer serving in a higher
 29 temporary grade, shall, unless separated or retired under another
 30 provision of law, or later promoted under the provisions of this
 31 Act, be retained on active duty until he completes 28 years of
 32 service computed under section 3927(a) or 8927(a) of title 10,
 33 United States Code, as they existed on the day before the effective
 34 date of this Act, and then retired under the provisions of section
 35 3916 or 8916 of that title, as they existed on the day before the
 36 effective date of this Act. However, such an officer shall be sub-
 37 ject to the selective continuation provisions of section 634 of title
 38 10, United States Code.

39 (3) An Army or Air Force officer who is serving in, or is on a
 40 recommended list of officers selected for promotion to the regular

1 grade of colonel, including such an officer who holds a temporary
 2 general officer appointment shall, unless separated or retired
 3 under another provision of law, or later promoted to a higher
 4 regular grade, be retained on active duty until he completes 30
 5 years of service computed under section 3927(a) or 8927(a) of
 6 title 10, United States Code, as they existed on the day before
 7 the effective date of this Act, and then retired under the provisions
 8 of section 3921 or 8921 of that title, as they existed on the day
 9 before the effective date of this Act. However, such an officer,
 10 except an officer serving in a temporary general officer grade or an
 11 officer on a recommended list for promotion to that grade, shall
 12 be subject to the selective continuation provisions of section 634
 13 of title 10, United States Code.

14 (4) A Navy officer serving in the grade of lieutenant com-
 15 mander or recommended for promotion to the grade of lieutenant
 16 commander, or a Marine Corps officer serving in the grade of
 17 major or recommended for promotion to the grade of major, shall
 18 retain the entitlement to the years of commissioned service spec-
 19 ified in section 6380 of title 10, United States Code, as it existed
 20 on the day before the effective date of this Act.

21 (5) An officer of the Navy serving in the grade of commander
 22 or captain, or a Marine Corps officer serving in the grade of lie-
 23 tenant colonel or colonel, on the effective date of this Act shall
 24 be subject to the provisions of section 634 of title 10, United
 25 States Code.

26 Notwithstanding any other provision of law, for the purpose of invol-
 27 untary retirement or discharge under chapter 36 of title 10, United
 28 States Code, the years of service of an officer subject to this section
 29 shall be computed by adding to that service creditable for involuntary
 30 retirement or discharge with which such officer is credited on the day
 31 before the effective date of this Act all subsequent service as computed
 32 under section 637 of title 10, United States Code. In the case of an
 33 officer for whom no means of computing service creditable for invol-
 34 untary retirement or discharge existed under law in effect on the day
 35 before the effective date of this Act, creditable service for the period
 36 prior to the effective date of this Act shall be determined under regu-
 37 lations prescribed by the Secretary of the military department con-
 38 cerned, provided that in no case shall such an officer be credited with
 39 less than his active commissioned service.

1 SEC. 13. For the purpose of computing years of service for eligi-
2 bility for consideration for continuation or for retirement under sec-
3 tion 6372a of title 10, United States Code, for an officer of the Navy
4 in a grade above captain or an officer of the Marine Corps in a grade
5 above colonel on the day before the effective date of this Act, the years
6 of service with which such an officer is credited, as computed under
7 chapter 573 of that title as it existed on the day before the effective
8 date of this Act, shall be added to the years of commissioned service
9 that he has served since the effective date of this Act in a grade above
10 captain in the Navy or above colonel in the Marine Corps. If an offi-
11 cer has not been on continuous active duty since he was promoted to a
12 grade above captain in the Navy or above colonel in the Marine Corps,
13 such time as he was not on active duty shall be counted for purposes of
14 this section as shall be specified in regulations prescribed by the Secre-
15 tary of the Navy. Each officer subject to this section is entitled to
16 count for the purpose of computing retired pay, or the computation of
17 basic pay, any service that was so creditable on the day before the
18 effective date of this Act.

19 SEC. 14. Notwithstanding any other provision of this Act:

20 (1) All officers formerly serving in any staff corps of the Navy
21 under an appointment made in accordance with section 5590 of
22 title 10, United States Code, as it existed on the day before the
23 effective date of this Act, shall be reappointed in that corps pur-
24 suant to this Act notwithstanding any limitations otherwise spec-
25 ified with regard to age, grade, or physical standards. Such officers
26 shall be considered for all purposes as having been originally so
27 appointed, and all provisions of law applicable to male officers
28 previously appointed in those staff corps apply to officers reap-
29 pointed under this Act, except as otherwise specifically provided
30 in this Act. Any officer reappointed in any staff corps of the Navy
31 under this section, shall be reappointed in the grade and with the
32 date of rank held at the time of reappointment. Officers so re-
33 appointed who at the time of reappointment have to their credit
34 leave accrued but not taken shall not, by reason of reappointment,
35 lose such accrued leave.

36 (2) Any officer appointed to the line of the Navy under section
37 5590 of title 10, United States Code, as it existed on the day before
38 the effective date of this Act, who possesses the requisite statutory
39 qualifications for appointment into any staff corps, may be reap-

1 pointed in that corps under the terms and conditions specified
2 in this section.

3 (3) All officers on the active list of the line of the Navy or the
4 Marine Corps appointed under section 5590 of title 10, United
5 States Code, as it existed on the day before the effective date of
6 this Act, shall be reappointed pursuant to this Act, notwithstanding
7 any limitations otherwise specified with regard to age, grade,
8 or physical standards. All provisions of law relating to male officers
9 on the active list of the Navy or Marine Corps apply to officers
10 reappointed under this Act except as otherwise specifically
11 provided in this Act. Any officer so reappointed under this section,
12 shall be reappointed in the grade and with the date of rank held
13 at the time of reappointment. Officers so reappointed who at the
14 time of reappointment have to their credit leave accrued but not
15 taken shall not, by reason of reappointment, lose such accrued
16 leave.

17 (4) Notwithstanding any provision of law, other than section
18 634 of title 10, United States Code, an officer of the Navy or Marine
19 Corps appointed under section 5590 of that title, as it existed
20 on the day before the effective date of this Act, who has not twice
21 failed of selection for promotion prior to the effective date of this
22 Act and who is not selected for promotion to a higher grade after
23 the enactment of this Act, may not be retired earlier than she
24 would have been retired had this Act not been enacted.

25 (5) Any officer who, under section 6401, 6402, or 6396 of title 10,
26 United States Code, as it existed on the day before the effective
27 date of this Act, would have been discharged on June 30 of the fiscal
28 year in which—

29 (A) that officer, as a lieutenant in the Navy or captain in
30 the Marine Corps, is not on a promotion list and has completed
31 13 years of active commissioned service; or

32 (B) as a lieutenant (junior grade) in the Navy or first
33 lieutenant in the Marine Corps, is not on a promotion list and
34 has completed 7 years of active commissioned service;

35 and who, because of the enactment of this Act, would be subject to
36 discharge under section 630 of that title, following enactment of
37 this Act if twice failed of selection, shall, if that officer has not
38 completed 13 or 7 years of active commissioned service, respectively,
39 and so requests, not be discharged until June 30 of the fiscal

1 year in which the officer completes 13 or 7 years of active com-
 2 missioned service, respectively.

3 (6) As soon as practicable after completion of the appoint-
 4 ments provided for in clauses (1), (2), and (3) of this section, the
 5 name of each officer so reappointed shall be entered on the appro-
 6 priate active-duty list of the Navy or of the Marine Corps in a
 7 position among officers of her grade as may be determined in ac-
 8 cordance with such regulations as the Secretary of the Navy may
 9 prescribe. All officers shall be placed on the active-duty list without
 10 change in their relative positions held on any list for pro-
 11 motion established for them while they were appointed under
 12 any provisions of title 10, United States Code, which are repealed
 13 by this Act. Any female officer who, by virtue of her date of rank
 14 and other considerations, would be placed on a promotion list
 15 senior to an officer who has failed of selection for promotion one or
 16 more times, and who is considered to have failed of selection for
 17 promotion not more than once, shall, for purposes of determining
 18 her eligibility for consideration for promotion to the next higher
 19 grade, be considered for promotion with those officers who are
 20 considered to have failed of selection for promotion the same num-
 21 ber of times as she, or who are considered never to have failed
 22 of selection for promotion, as the case may be. No female officer
 23 who is considered to have failed of selection for promotion one or
 24 more times and whose position on the active-duty list is junior
 25 to any male officer who is considered to have failed of selection
 26 for promotion a fewer number of times or not at all, as the case
 27 may be, may derive any advantage in the selection process by
 28 virtue of such active-duty list position.

29 (7) An officer of the Navy or Marine Corps designated for lim-
 30 ited duty before the effective date of this Act who on or after the
 31 effective date of this Act—

32 (A) fails of selection for promotion to the next higher
 33 grade for the second time; or

34 (B) is not promoted to a higher grade at any time, shall
 35 be governed by section 6383 of title 10, United States Code,
 36 as it existed on the day before the effective date of this Act.
 37 An officer designated for limited duty who after the effective
 38 date of this Act is promoted shall be governed by section
 39 6383 of that title as it existed on the effective date of this Act.

40 SEC. 15. Notwithstanding any provision of this Act:

(1) Crediting of years of service shall not be affected by this Act for any person who before the effective date of this Act was—

(A) credited with years of service upon an original appointment, or subsequently credited with years of service; or

(B) participating in a program leading to a commission or appointment which will result in the crediting of years of service.

(2) For purposes of computing retired pay or the computation of basic pay, each officer of the Army or Navy in the Medical or Dental Corps, or each officer of the Air Force who was a designated medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer, on the effective date of this Act is entitled to count any service that was so creditable under laws in effect on the day before the effective date of this Act.

SEC. 16. Notwithstanding any other provision of this Act, a reserve officer of the Army or Air Force on active duty on the effective date of this Act who is promoted under the provisions of chapter 36 of title 10, United States Code, does not vacate any higher reserve grade to which he was entitled under any law in effect on the day before the effective date of this Act so long as he remains a reserve officer.

SEC. 17. Notwithstanding any other provision of this Act, a reserve officer of the Army or Air Force serving on active duty on the effective date of this Act shall be subject to the provisions of chapter 36 of title 10, United States Code, while he continues on that tour of active duty.

SEC. 18. A commissioned officer of the Army or Air Force (other than a commissioned officer of the Regular Army or Regular Air Force or a reserve commissioned officer specified in section 641 of title 10, United States Code) serving on active duty on the effective date of this Act shall be considered to have been recommended for promotion under chapter 36 of title 10, United States Code, in the temporary grade in which he is serving on the effective date of this Act.

SEC. 19. A reserve commissioned officer of the Army or Air Force, other than one specified in section 641 of title 10, United States Code, serving on active duty on the effective date of this Act, who has the reserve grade of first lieutenant, captain, or major, who was considered once and not recommended for promotion to the next higher reserve grade under section 3366 or 8366 of title 10, United States Code, shall, if otherwise eligible, be considered again for promotion to the next higher reserve grade by a selection board convened under section 3366 or 8366 of that title, as appropriate. If selected, he may be retained

1 on active duty subject to the provisions of this Act or any other pro-
 2 vision of law. If he is not recommended for promotion he shall be re-
 3 leased from active duty under regulations prescribed by the Secre-
 4 tary of the military department concerned and be treated as provided
 5 in section 3846 or 8846 of title 10, United States Code, as appropriate.

6 SEC. 20. A reserve commissioned officer of the Army or Air Force,
 7 other than one specified in section 641 of title 10, United States Code,
 8 who has the reserve grade of first lieutenant, captain, or major, who
 9 on the effective date of this Act has twice failed of selection for promo-
 10 tion to the next higher reserve grade under section 3366 or 8366 of that
 11 title, as appropriate, shall be released from active duty under regula-
 12 tions prescribed by the Secretary concerned and be treated as provided
 13 in section 3846 or 8846 of that title, as appropriate.

14 SEC. 21. Notwithstanding any other provision of law, any regular
 15 officer of the Army or Air Force whose retirement was deferred under
 16 chapter 367 or 867 of title 10, United States Code, or suspended under
 17 section 3313 or 8313 of that title, may continue to serve on active duty
 18 in a deferred status for the period that his retirement was deferred
 19 or suspended.

20 SEC. 22. Notwithstanding any provision of law other than section
 21 634 of title 10, United States Code, a Regular Navy line officer re-
 22 stricted in the performance of duty serving in the grade of captain, a
 23 staff corps officer of the Regular Navy serving in the grade of captain,
 24 and a Nurse Corps officer of the Regular Navy serving in the grade
 25 of commander on the effective date of this Act may continue to serve
 26 on active duty for the number of years prescribed by former section
 27 6377 of title 10, United States Code, as it existed on the day before the
 28 effective date of this Act.

29 SEC. 23. (1) An officer who is on active duty in the grade of rear ad-
 30 miral on the day before the effective date of this Act, and who is en-
 31 titled to the basic pay of a rear admiral of the upper half or of the
 32 lower half, shall be considered as serving in the grade of rear admiral
 33 or commodore admiral, respectively, and will retain the title of rear
 34 admiral. An officer who, on the day before the effective date of this
 35 Act, is on an approved list of officers recommended for promotion to
 36 the grade of rear admiral, shall upon promotion be considered as serv-
 37 ing in the grade of commodore admiral with the title of rear admiral.

38 (2) An officer on active duty in the grade of rear admiral on the day
 39 before the effective date of this Act, who is entitled to the basic pay

1 of a rear admiral of the lower half, or an officer who, on the day before
 2 the effective date of this Act is on an approved list of officers recom-
 3 mended for promotion to rear admiral, shall henceforth, or in the case
 4 of a selectee, upon promotion to the grade of commodore admiral, be
 5 entitled to wear the uniform and insignia which a rear admiral entitled
 6 to the basic pay of a rear admiral of the lower half was entitled to wear
 7 on the day before the effective date of this Act.

8 (3) An officer who, on the day before the effective date of this Act,
 9 holds the grade of rear admiral and is a retired officer not on active
 10 duty, including an officer on the temporary disability retired list, shall
 11 retain the title of rear admiral and such rights to wear the uniform and
 12 insignia of his grade as he held on the day before the effective date of
 13 this Act. Should such an officer while in the grade of rear admiral be
 14 recalled or returned to active duty, he shall retain such rights to wear
 15 the uniform and insignia of his grade as he held on the day before the
 16 effective date of this Act. However, upon recall or return to active
 17 duty, he shall—

18 (A) if, on the day before the effective date of this Act, he held
 19 the grade of rear admiral entitled to the pay of a rear admiral of
 20 the lower half, shall retain the uniform, insignia, and title of rear
 21 admiral, and shall be considered as holding the grade of com-
 22 modore admiral as established by this Act, both while on active
 23 duty, and, unless entitled to a higher grade under some other law,
 24 upon subsequent release from active duty; and

25 (B) if, on the day before the effective date of this Act, he
 26 held the grade of rear admiral entitled to the pay of a rear admiral
 27 of the upper half, be considered to hold the grade, and have the
 28 title of rear admiral as established by this Act, while on active
 29 duty, and, unless entitled to a higher grade under some other law,
 30 upon subsequent release from active duty.

31 (4) Notwithstanding any other provision of this Act, an officer of
 32 the Navy on the day before the effective date of this Act in the grade
 33 of rear admiral entitled to the basic pay of a rear admiral of the lower
 34 half who was subject to section 202(a)-(d) of title 37, United States
 35 Code, as it existed on the day before the effective date of this Act, or
 36 an officer who on the day before the effective date of this Act is on an
 37 approved list of officers recommended for promotion to rear admiral
 38 who, upon promotion to that grade would have been subject to those
 39 provisions as they existed on the day before the effective date of this
 40 Act, shall not be subject to the provisions of this Act respecting promo-

tion to the grade of rear admiral. Officers subject to this clause are entitled to the grade of rear admiral under the circumstances described in section 202 of title 37, United States Code, as it existed on the day before the effective date of this Act. In applying section 202 of title 37, United States Code, for the purpose described herein, rear admirals and commodore admirals shall be considered as serving in the grade of rear admiral, as it existed on the day before the effective date of this Act.

(5) Notwithstanding any other provision of this Act, an officer of the Navy who, on the day before the effective date of this Act, is serving in the grade of rear admiral or who is on an approved list of officers recommended for promotion to the grade of rear admiral and who—

(A) has not been considered for retirement under section 6394 of title 10, United States Code, shall not be subject to section 6372a of that title, as added by this Act, until after he is considered for retirement under section 6394 of that title; and

(B) has been considered for retirement under section 6394 of that title, shall not be subject to section 6372a of that title, as added by this Act.

(6) Notwithstanding any other provision of this Act, the effective date and applicability of sections 5442(j), 5444(g), and 5457(a) of title 10, United States Code, as amended or added by this Act, shall be determined as follows—

(A) each subsection shall become effective only when all the officers to which it applies, who were in the grade of rear admiral entitled to the basic pay of a rear admiral of the lower half or on an approved list of officers recommended for promotion to the grade of rear admiral on the day before the effective date of this Act, are entitled to the grade of rear admiral as established by this Act, pursuant to section 23(4) of this Act; and

(B) after the effective date of sections 5442(j), 5444(g), and 5457(a), the limitations under any one of those sections may be exceeded only if no new appointments and promotions, among officers subject to the sections, are made to the grade of rear admiral as established by this Act. Once the percentage limitation imposed by a section specified in the preceding sentence is initially complied with, the authority to exceed such limitation is terminated.

1 (7) Notwithstanding any other provision of this Act, a reserve
 2 officer of the Navy who, on the day before the effective date of this
 3 Act, is serving in the grade of rear admiral or who is on an approved
 4 list of reserve officers recommended for promotion to the grade of rear
 5 admiral, is not subject to section 6389(f) of title 10, United States
 6 Code, as added by this Act.

7 SEC. 24. The active-duty list established by section 620 of title 10,
 8 United States Code, takes the place of the active list, promotion list,
 9 or lineal list of the Army, Navy, Air Force, or Marine Corps, as the
 10 case may be, under the provisions of title 10, United States Code, as
 11 they existed on the day before the effective date of this Act.

12 SEC. 25. Notwithstanding any other provision of law, a member
 13 of the Army, Navy, Air Force, or Marine Corps who is on active duty
 14 (other than for training) on the effective date of this Act, and who
 15 is involuntarily discharged or released from active duty, is entitled,
 16 at his election, to—

17 (1) any readjustment payment or severance pay to which he
 18 would have been entitled under laws in effect before the effective
 19 date of this Act; or

20 (2) if qualified, to the separation payment as provided by sec-
 21 tion 1173a of title 10, United States Code, as added by section 2
 22 (8) of this Act.

23 SEC. 26. Except as otherwise provided in this Act, the provisions
 24 of this Act do not affect rights and duties that matured, penalties that
 25 were incurred, and proceedings that were begun before the effective
 26 date of this Act.

27 SEC. 27. If a part of this Act is invalid, all valid parts that are sev-
 28 erable from the invalid part remain in effect. If a part of this Act is
 29 invalid in one or more of its applications, the part remains in effect
 30 in all valid applications that are severable from the invalid applica-
 31 tions.

32 SEC. 28. No inference of a legislative construction is to be drawn
 33 from the part of title 10, United States Code, in which any section en-
 34 acted by this Act is placed, or from the catchline of any chapter or
 35 section enacted or amended by this Act.

36 SEC. 29. If a provision of law that is in a suspended status on the
 37 day before the effective date of this Act is amended by this Act, the
 38 suspended status of that provision is not affected by that amendment.

- 1 Sec. 30. This Act becomes effective on the first day of the first month
- 2 after enactment or on October 1, 1977, whichever is later.

Passed the House of Representatives, February 14, 1978.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

Senator NUNN. Our first witness this morning is Hon. John P. White, Assistant Secretary of Defense, for Manpower, Reserve Affairs and Logistics, and Maj. Gen. S. M. Umstead, Jr., USAF, Deputy Assistant Secretary of Defense, Military Personnel Policy.

General Umstead, this is your first formal appearance before this subcommittee so I want to extend a special welcome to you.

We have also had a number of requests from military chaplains who are concerned about the particular effects of "up and out" policies on chaplains. I share that concern. Unfortunately we will not have time to hear them today but will be inserting statements in the record. We will be giving very careful consideration to the points that are being raised.

Mr. White, after your statement, we will have questions, as well as some additional detailed questions for the record.

Please proceed with your statement.

STATEMENT OF HON. JOHN P. WHITE, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER, RESERVE AFFAIRS AND LOGISTICS, ACCOMPANIED BY MAJ. GEN. S. M. UMSTEAD, JR., USAF, DEPUTY ASSISTANT SECRETARY OF DEFENSE, MILITARY PERSONNEL POLICY; LT. GEN. BENNIE L. DAVIS, USAF, DEPUTY CHIEF OF STAFF FOR PERSONNEL; MAJ. GEN. CHARLES K. HEIDEN, USA, COMMANDING GENERAL, U.S. ARMY MILITARY PERSONNEL CENTER; REAR ADM. JAMES A. WINNEFELD, USN, ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS, MANPOWER PROGRAMS; BRIG. GEN. HUGH S. AITKEN, USMC; DIRECTOR, MANPOWER PLANS AND POLICIES DIVISION, USMC

Mr. WHITE. Thank you. We appreciate the opportunity to be here today.

I have quite an extensive statement which with your permission I will submit for the record and just begin with a few summary comments.

DOPMA, as you know, is the culmination of extensive efforts by the Department of Defense and Congress over a period of years. There has been a great deal of study and examination of a large number of options and alternatives in order to create an effective new defense officer personnel management system.

In my view, this system is critical to structuring the foundation of officer management for decades of the future.

This particular proposal meets the DOD objectives. It provides for the grade requirements we need. It provides for the career progression which is necessary and provides for the important interservice consistency. Also, it corrects serious deficiencies in the current system in terms of the grade problems in the Air Force and the inequities with respect to women and other features.

If I may add a personal view, Mr. Chairman, last year, when I joined the administration, we purposefully withheld the subsequent submission of DOPMA until we had had an opportunity to thoroughly review it, since it was something that had been created before. I spent a good deal of my own time on that review and I am convinced now, as I was then, that this is an effective, efficient alternative for the future.

Let me briefly indicate its major features:

First, as you know, it provides for revised permanent grade authorizations to replace both the permanent regular limits of the 1947 Officer Personnel Act and of the temporary grade ceilings of the 1954 Officer Grade Limitation Act.

It provides for improved management and contains several features for Reserve officers as well.

It provides for an all Regular career force by 11 years of service, and importantly, I think, it institutes a single promotion system which replaces the current dual temporary-permanent promotion systems that we have been living with.

It operates in such a way that it will give the officers in the force a career expectation which is generally uniform across the services, while at the same time protecting the up or out principles which in my view are absolutely critical to the quality of our force. Maximum service in grade is also standardized across the services.

It provides for selective continuation in the senior grades and for improved separation pay. It also provides for the equalization of treatment for female officers, which we think is very, very important.

There are many longstanding provisions of the law which contain unwarranted distinctions with regard to female officers and they should be repealed. It has a uniform constructive credit system; and it also creates the Commodore-Admiral grade for the Navy so they will be in line with the other services in this regard.

You have asked before, Mr. Chairman, about the relationship between DOPMA and the President's Commission on Military Compensation proposals. We have, subsequent to your inquiry, examined those issues carefully and we do not see any fundamental inconsistencies between the two proposals. The DOPMA was developed as a system that assumed support of a complementary compensation system. We will be coming forward later with recommendations regarding the compensation system.

Let me also mention a very important event, in my view, and that is the close cooperation between your staff, the Congressional Budget Office staff, and the Department of Defense. We appreciate the opportunity very much to work at the staff level in this regard. The staffs have been able to examine in technical detail a number of alternatives and to discuss their implications. I think most importantly, it has allowed for common agreement on the systems operating characteristics so that the evaluation and discussion of true policy alternatives can be done in a common framework. I think this is particularly important.

That is not to say, of course, that analysts will agree on every feature; I am sure they won't, but it does provide this common basis for discussion. I think this is an important step and I would urge us to try to do it more in the future.

In conclusion, Mr. Chairman, in my view DOPMA is a sound proposal; it meets the objectives that you indicated in your opening remarks. It has been in development now for some 6 years, which has allowed detailed examination of alternatives. We share the concern for a lean, high quality Officer Corps at economical cost and the retention of a viable dynamic and competitive Officer Corps.

Finally, Mr. Chairman, we greatly appreciate the time that this subcommittee, and you in particular, have devoted to this complicated subject. It is important but it also takes a great deal of time to understand and we recognize how much of your valuable time has been spent on that.

With that, sir, we would be pleased to answer any questions that you may have.

[The prepared statement follows:]

STATEMENT OF HON. JOHN P. WHITE, ASSISTANT SECRETARY OF DEFENSE,
MANPOWER, RESERVE AFFAIRS, AND LOGISTICS

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify today on H.R. 5503, the Defense Officer Personnel Management Act or DOPMA, a bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes.

The Department of Defense has a legislative proposal very similar to H.R. 5503. Except for the separation pay provision, which I will discuss later, the differences between H.R. 5503 and the Department's proposal are primarily technical in nature. Our proposal was cleared by the Office of Management and Budget, and submitted to the Congress on 31 August 1977.

H.R. 5503 as passed by the House of Representatives, 351-7, resulted from a proposal initially submitted by the Department in January 1974 in compliance with Public Law 92-561. This law directed the Secretary of Defense to recommend grade limitations that would provide similar career opportunity for the commissioned officers of each military service and eliminate the recurring need since 1959 for temporary grade relief legislation for the Air Force.

Thus, the bill you are considering today represents the culmination of efforts by both the Department and the Congress over a period of many years and its enactment will provide the statutory authority which has been needed for some time to implement a vastly improved and modernized officer personnel management system for the Department of Defense.

The DOPMA proposal represents a major change to the existing officer personnel laws, which stem primarily from the Officer Personnel Act of 1947 and the Officer Grade Limitation Act of 1954. Although these were single Acts, they provided separate provisions for officers of each Military Department and produce many differences between the Services in the management of the officer corps. These differences have resulted from the historic separate development of the service statutes and generally do not reflect differences in actual management needs today. This proposal would provide common statutes to eliminate unwarranted differences.

The bill may at first appear to be complex. However, there are many technical changes to existing law involving only definition changes which add to the bill's length. It consists of 108 pages. The first 42 pages contain the major features and new substantive provisions, setting forth grade distribution, and regulations for appointment, promotion, separation, and retirement. The remaining 66 pages provide technical adjustments necessary to reconcile existing law with the new provisions and also contain the transition provisions.

For the remainder of my remarks I would like to review the general objectives involved in officer management, and on which the DOPMA proposal is predicated, followed by a brief review of the major features of the bill.

System objectives and variables

The objectives of the proposed officer management system can be stated briefly as follows:

First, to allow the Services to meet requirements for officers in the various grades at ages conducive to effective performance.

Second, to provide career opportunity that will attract and retain the number of high caliber officers needed.

Third, to provide career opportunity which is reasonably consistent among the four Services.

These objectives represent a balance between two different, and in some respects opposite, perspectives—those of management on one hand and those of the individual on the other.

Our first task, of course, in developing our programs, is to insure that the number of officers in each of the grades is adequate to meet the demands of the force structure maintained for national security. However, in making the determination of how many officers there should be in each of the grades, management must also take into account those factors which influence supply. That is, career opportunity must be such that a sufficient number of individuals will want to join and remain with the Services so that management can exercise a degree of selectivity over those who are to stay.

This matter of career opportunity is particularly important because of two characteristics which we consider to be fundamental to personnel management in the military:

First, there is limited lateral entry into the officer ranks since the Services cannot directly hire senior officers from non-military organizations; all but a few specialist positions must be filled by officers who are steadily progressing from within.

Second, there is a persistent need, both in wartime and peacetime, for a young and vigorous officer corps exemplifying high levels of mental and physical stamina, enthusiasm, and adaptability.

These two characteristics, in combination, make it essential that a carefully planned, long range approach be taken to all decisions affecting career management and that a careful balance be maintained between a number of interacting variables which constitute the basic elements of the management system. These variables are:

Annual procurement.—The number of officers who are taken into the system each year to maintain a force of a given size.

Normal attrition.—The number of officers who leave the system by voluntary separation, voluntary retirement, disability, or death.

Forced attrition.—The number of officers who leave the system by involuntary separation or involuntary retirement.

Promotion timing.—The normal year of commissioned service during which the greatest number of officers are promoted to each grade.

Promotion opportunity.—The cumulative opportunity for advancement for those who have competed for promotion to the next higher grade.

Grade distribution.—The number of officers in each of the various grades.

It is important to recognize that a change in any of these variables precipitates a change in one or more of the others. For example, the career opportunity that can be offered is determined for the most part by the promotion timing and promotion opportunity to each of the grades. The promotion timing and opportunity in turn are determined by the numbers of officers that can be promoted to each grade over a given period of time. The numbers that can be promoted depend on the grade distribution that is authorized. Assuming that grade distribution is fixed, a decrease in attrition (either normal or forced) will retard the promotion point or reduce promotion opportunity, or both. Similarly, a reduction in grade distribution without an increase in attrition will also retard the promotion point or reduce promotion opportunity.

Past legislative actions

Historically, there have been several attempts to shape the variable elements of the officer personnel system. From the early days of the nation up to the present century, promotion timing and opportunity were largely a product of normal disability retirement. The resulting promotion by seniority produced many officers far too old for effective performance and created inordinate leadership turbulence during mobilization.

Minor application of forced attrition started early in this century with mandatory retirement for age. In 1916, the Navy was authorized a system of officer promotion by board action which for the first time initiated forced attrition through "up-or-out" procedures. In the 1930's, voluntary retirement for the Army with as little as 15 years was established to stimulate promotion and produce younger officers. These applications of attrition, however, had a modest impact in alleviating promotion stagnation and excessive aging of the officer

corps. Consequently, in mobilizing for and during World War II, it was necessary to remove many officers, including operational commanders, due to inefficiency, advanced age, and ill health. At the same time, many younger officers were promoted to senior grades without the opportunity to gain experience in the middle grades.

In the Officer Personnel Act of 1947 (OPA), Congress and the Services recognized many of these deficiencies and sought to establish a comprehensive officer personnel management system which would incorporate the lessons learned before and during World War II. It accommodated the integration into the Regular forces of a large number of Reserves and established a sound basis for career planning for Regular officers. This law provides much of the foundation for today's officer personnel system. It has several features worthy of note:

First, at the time of enactment, Congress envisioned attainment of smaller predominantly all-Regular forces within a ten-year transition period. This has never come to pass.

Second, as noted earlier, the Act established in law certain basic differences between officer management in the Army (and later in the Air Force) and the Navy and Marine Corps. For example, for permanent promotion of Regular officers, the Navy was provided a fixed grade distribution and promotion timing which required significant forced attrition. By contrast, the Army system required that promotion occur not later than specified points in service and (to limit the amount of forced attrition) provided that the grade distribution could be exceeded to insure a minimum promotion opportunity of 80 percent to all grades below O-6. Further, both the percentage grade distribution and promotion timing were different for the Army and Navy. Consequently, differences in career opportunity for Regular officers were established in law.

Third, the Act provided no limitations on temporary promotions for the Army and Air Force, and the limitations it provided for the Navy and Marine Corps were unrealistically high when applied to the force existing during the 1950's.

In 1954, Congress enacted the Officer Grade Limitation Act (OGLA) to supplement the provisions of the Officer Personnel Act and gain better control over temporary promotions in the large officer forces then required. The Act established limitations on the numbers of both Regular and Reserve officers who could serve on active duty in the grades of major/lieutenant commander and above.

In determining the grade limitations for each Service, the Congress specified lower limitations in the grades of colonel and lieutenant colonel for the recently established Air Force than for the Army and Navy. These lower limitations recognized that, at that time, the Air Force had a relatively young officer force in terms of years of active duty. This restriction served to prevent too many young officers from progressing too quickly to senior grades.

In 1954, only 18 percent of the Air Force officers had more than 12 years service compared to 32 percent within the Army and Navy. Congress recognized that as the Air Force officers matured, the tables would have to be adjusted. It has subsequently passed temporary grade authorizations for the Air Force on eight occasions.

At this point I should mention that the current temporary authority for Air Force officer grades expires on September 30, 1978. Separate legislation to extend this authority will have to be prepared for consideration in the event Congress is unable to enact the new grade limitations contained in the bill you are considering prior to that date.

In 1959, the large number of officers originally commissioned during World War II (the so-called World War II "Hump") was beginning to seriously threaten reasonable promotion opportunity in the Navy and Marine Corps. To cope with this problem, Congress authorized those Services to accelerate forced attrition by the early involuntary retirement of many lieutenant colonels/commanders and colonels/captains.

In 1960, Congress authorized the Air Force and Army to accelerate the involuntary retirement of lieutenant colonels and colonels who had twice failed selection for promotion to the next higher grade.

From a review of past legislative actions, it is apparent that Congress has taken many measures to influence the basic elements of the officer management system. It has placed particular emphasis on the establishment of limits on grade distribution and on the authorization for additional forced attrition when necessary to maintain reasonable promotion timing and opportunity.

Purpose of the legislation

With this background I would like to turn now to a brief resume of the major provisions of the proposed bill. The specific purpose of the legislation is to revise

the laws which govern the management of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps below the grade of brigadier general or rear admiral. The bill would: (1) establish new statutory limitations on the number of officers who may serve in senior grades below flag rank; (2) provide common law for the appointment of Regular officers and for the active-duty service of Reserve officers; (3) provide uniform laws for promotion procedures for officers in the separate Services; (4) establish common provisions governing career expectation in the various grades; and, (5) establish common mandatory separation and retirement points.

The principal statutory regulation for officer personnel management will continue to be exercised through the grade distribution authorized by the grade tables. I will discuss these tables, but first I would like to cover the other features of the bill which would facilitate operations under the new grade authorizations as well as to eliminate the inconsistencies that exist between the Services today.

Major provisions

The major features or provisions which I will cover are: appointment of new officers, the single-step promotion system, the all-regular career force, career expectation, and mandatory separation and retirement.

Appointments

With regard to the entry of new officers, the bill provides common general authority for the permanent appointment of officers by the President, by and with the advice and consent of the Senate. The bill standardizes, between the Services, certain basic qualifications for appointment, such as citizenship and age, while maintaining the authority for each Service to appoint officers into the various categories of professional groups and specialties needed to meet the unique requirements of the individual Service.

Present law and current administrative practice for determining the amount of service to be credited an officer for advanced education are inequitable and inconsistent between the Services. The proposed legislation, as amended by the House of Representatives last year, provides equity and uniformity in the application of constructive service credit and eliminates its use where not appropriate. Constructive service credit will be provided on a year-to-year basis for each year of education normally required beyond the baccalaureate level—in other words, beyond four years. Constructive service credit would be used only for determining entry grade, position on the active-duty list, seniority in grade and time in grade for promotion eligibility.

Single promotion system

Although temporary original appointments to officer status will be permitted during war, the now extensive system of temporary promotion authority for officers will be abolished and the bill will provide a single-step promotion system to replace the dual (temporary/permanent) systems in effect. Promotion will be on a permanent basis as vacancies occur under a single set of statutory limits for each Service.

All-regular career force

The proposed legislation provides for an all Regular career force by the end of 11 years of commissioned service.

Officers who begin their active commissioned service as Reserve officers can look forward to a full career only by integrating into the Regular force and accepting status as Regular officers. By establishing an all-Regular force after 11 years, a visible career gate will exist that will motivate officers to commit themselves early to an active duty career while at the same time requiring Service managers to develop and evaluate the potential of junior officers and make commitments to those individuals needed by the Service in the career force. Further, greater individual equity will be achieved if all officers not selected for the career active duty force (except those Reserves involved in organizing, training, and administering the Reserve components) are released from active duty (with adequate compensation) not later than the completion of 11 years of service.

Up-or-out system

During my review of the proposed legislation I examined closely the so called "up-or-out" system, which was adopted for all the Services in the Officer Personnel Act of 1947. The system was designed to vitalize the officer corps, replacing seniority with selectivity as the criteria for promotion. That is, selective promotion of the best officers and attrition of the others. The interrelationships

between promotion and attrition were arranged to prevent the growth of an over-age corps of senior officers who would block the advancement of promising younger officers by simply stagnating in grade until time for retirement.

The basis of the up-or-out philosophy rests on two principles. First, when an officer is passed over in the selection process he is eliminated after a certain number of years depending on grade attained. Second, when an officer reaches the limit of his potential, after satisfactorily passing through the promotion system, he serves a reasonable period in his highest grade, then retires, thus ensuring that an adequate balance between experience and youth can be maintained. As I mentioned previously, this principle evolved over time; has been more than adequately tested over the past 30 years; and has provided this Nation what it never had before in peacetime—a youthful, vigorous, fully combat-ready officer corps.

We are sensitive to the concerns which have been expressed over the cost of the up-or-out concept. The Department has examined the long-term impacts on total system costs, including procurement, training, active pay and allowances, as well as separation and retirement costs. Our analyses indicate that this type of system does not cause excessive costs but on the contrary can be less costly than other reasonable alternatives. The relatively slight cost differentials between alternatives allows us to concentrate our efforts on developing the most effective, highly qualified, and motivated officer corps. I firmly believe that the up-or-out principle is the best way to achieve these objectives.

Career expectation

The up-or-out principle is reflected in DOPMA in the career expectation or maximum length of service in grade. In today's law these maximum periods of service for Army and Air Force officers are different from those of Navy and Marine Corps officers. DOPMA will standardize them as follows: Officers in the grades of major or lieutenant commander (O-4) and below who twice fail selection to the next higher grade will be subject to involuntary separation; however, O-4's may be continued on active duty until they become eligible for retirement if they are qualified and are needed. Lieutenant colonels and commanders (O-5) who twice fail selection to the next higher grade will be involuntarily retired after the completion of 26 years of commissioned service. Colonels and Navy captains (O-6) would be involuntarily retired after the completion of 30 years of commissioned service if not selected for promotion by that time.

Since guaranteed length of service limits the Department's ability to manage the force either in terms of grade structure or quality, a new authority is provided in DOPMA for the selective involuntary retirement of officers in the grades of O-5 and O-6 prior to their 26th and 30th year, respectively. Under this authority, lieutenant colonels and commanders who have failed selection for promotion at least twice and colonels and captains (Navy) with more than four years in grade may be considered by a continuation board. At least 70 percent of the officers considered in these grades, however, would have to be continued. Those officers not recommended for continuation would be retired. These selective continuation procedures are intended to be used sparingly by the Service Secretaries and are primarily a means of reducing the numbers in grade when necessary, such as a reduction in force.

General and flag officer grades

There may be some concern that general and flag officer grades were not included in the DOPMA legislation. The Department specifically excluded these officers in order to avoid further complexity in an already complex legislative proposal. I should mention, however, a significant change for the Navy contained in the bill, which was added by the House of Representatives during its action on the legislation. The Navy has not had a one-star rank in the normal grade structure since 1899 although it has had the one-star grade of commodore for use in wartime.

Under present law applicable to the Navy, there is only one grade for promotion purposes, rear admiral, where the other Services have two grades, brigadier general (O-7) and major general (O-8). Navy rear admirals all wear the two-star (O-8) grade insignia. The proposed legislation incorporates provisions added by the House, creating a one-star grade in the Navy which parallels that grade in the other Services. The new O-7 grade will have the title of commodore admiral. Also provided for in the legislation is a requirement for officers to be selected to the two-star grade of rear admiral by a selection board process. These provisions are similar to those currently in effect for the other Services. The Department recently completed an extensive review of flag officer requirements and we intend to conduct

a review of all aspects of the general and flag officer management system as a high priority task immediately following DOPMA enactment and will submit recommendations to Congress for legislation as appropriate.

Equalization of treatment for female officers

H.R. 5503 also contains highly significant improvements in the treatment of women officers. Extensive changes are proposed to existing law to insure that the appointment, promotion, accountability, and retirement provisions will apply equally to male and female officers of all grades. This equality of treatment will for the first time provide a clear path of advancement for women officers in the Navy and Marine Corps to flag and general officer grades similar to that afforded women officers in the Army and Air Force.

Separation pay

H.R. 5503 contains the provisions, added by the House of Representatives, which revise the officer separation pay procedures in current law and provide for a ceiling of \$30,000 for such payments. These payments are for officers forced off active duty after several years of service but short of retirement eligibility. The formula devised for such payments is a modification of the formula originally contained in the Department's Retirement Modernization Act (RMA) and was incorporated in the DOPMA legislation in order to permit the DOPMA legislation to stand on its own. This action was recognized at the time as an interim measure pending Congressional action on modernizing the military retirement system. Subsequently, President Carter directed the establishment of the President's Commission on Military Compensation to examine military compensation and retirement modernization. Therefore, the Department omitted from its proposal any increase in severance or readjustment pay, preferring to wait until the recommendations of the President's Commission became available and could be evaluated.

Mr. Chairman, I know you and the other members are concerned about the relationship between this proposal and the recommendations of the President's Commission. We are conducting a complete analysis of the total compensation and retirement system proposed by the Commission and are not in a position at this time to either endorse or reject its specific recommendations. However, our preliminary review of the Commission's proposals has revealed no basic conflicts with the principles of DOPMA. We believe that DOPMA will provide a more effective means of managing the officer force and that the compensation and retirement systems should be supportive and complementary. Our review of the Commission's report—and follow-on recommendations to the Congress—will reflect this philosophy. Early passage of DOPMA by Congress will provide a firm basis of intent on which the complementary compensation proposals can be considered.

Revised permanent grade limitations

I would like to turn now to a discussion of the grade tables of the legislation. New grade limitations are proposed for major and lieutenant commander, lieutenant colonel and commander, and colonel and Navy captain replacing both the permanent Regular limits of the Officer Personnel Act of 1947 and the temporary grade ceilings of the Officer Grade Limitation Act of 1954. As was the case in OGLA, statutory control over the lower grades is not proposed because overall officer strength management requires a degree of latitude in managing this group which is not susceptible to long range legislation.

The grade tables in the bill are designed to insure that billet requirements for each grade can be adequately satisfied and so that promotions to each grade can occur at reasonably spaced intervals in order to maintain a selective flow of officers through the grades with a credible opportunity for advancement. It is anticipated that the promotion systems under DOPMA will normally operate within promotion timing guidelines and minimum promotion opportunities as follows:

To first lieutenant or lieutenant junior grade upon completion of two years of commissioned service. All officers found qualified could be promoted.

To captain or Navy lieutenant at the completion of four years with a 95 percent promotion opportunity.

To major or lieutenant commander at about the 10th year of service (+ or - 1 year) with an 80 percent promotion opportunity.

To lieutenant colonel or commander at about the 16th year of service (+ or - 1 year) with a 70 percent promotion opportunity.

To colonel or Navy captain at about the 22nd year of service (+ or - 1 year) with a 50 percent promotion opportunity.

Translating the preceding promotion parameters into the most basic terms it means that of 100 officers who enter service as second lieutenants or Navy ensigns, and who want to stay in the service, approximately 18 will be able to advance as far as colonel or Navy captain. It should be emphasized that the promotion parameters would not be prescribed in law. Experience has shown that these variables cannot be successfully legislated because of the difficulty of accurately predicting future retention rates and voluntary losses.

Briefly stated, the tables are designed to meet requirements, provide viable career opportunity within each Service, and permit reasonably consistent career opportunity among the Services. At the same time, the limitations provide sufficient flexibility to respond to changing manpower levels. To help accomplish these objectives the tables have retained the sliding-scale principle enacted by Congress in the Officer Grade Limitation Act of 1954. This principle provides that the percentage of field-grade officers does not increase or decrease as rapidly as changes in the total strength of the officer corps as a whole.

A significant change reflected in DOPMA is that Reserve officers ordered to active duty in time of war or a national emergency will not be included in the grade limitations. This will avoid the problems associated with attempting to integrate mobilized Reserves temporarily into a grade table and management system not designed to accommodate them and will greatly ease and facilitate their lateral transition to and from active duty.

Most importantly it should be recognized that the grade tables are considered as an umbrella, or permanent upper grade limit. They are not intended just to meet current force structure requirements but are designed to be a flexible management tool which allows long-range management of the officer corps. The actual grade structure maintained will be a balance of current requirements, fiscal constraints, and personnel management considerations.

The House Committee on Armed Services' Report (95-566, Part 1) contains comparisons of the difference between the existing OGLA limitations and the proposed new limitations. Except for correcting the Air Forces' inadequate permanent limits, there are no radical changes; however, H.R. 5503 reflects a reduction imposed by the Committee on Armed Services of 3 percent in the O-5 and O-6 grades from the levels initially requested by the Department of Defense. In the DoD aggregate, the number of colonels and Navy captains (O-6 grade) will be reduced at all strength levels. The number of lieutenant colonels and commanders (O-5 grade) are also reduced except for a slight increase at lower strength levels.

Authorizations for majors and lieutenant commanders (O-4 grade) are increased at all strength levels to correct proportional changes in the OGLA tables that were proportional to strength change and disruptive to career opportunity. This defect in OGLA permits excessive promotions as strength levels increase, and causes promotion moratoriums as they decrease. The new tables provide the number of O-4's required to assure more consistent career opportunity in each of the Services.

The grade limitations represent a particularly significant change for the Navy. Currently, Navy restricted line and staff corps officers are not subject to direct grade limitations but are controlled indirectly by their relationship to officers of the unrestricted line. This proposal will place restricted line and staff corps officers (with the exception of physicians and dentists) under direct grade control.

In addition to placing more Navy officers under the grade table limitations, the legislation provides for uniformity in the accountability of other categories. In keeping with present law, physicians and dentists will not be included in the grade limits, since the tables have not been designed to accommodate their unique grade structure, and other officers who are not part of the normal active duty career path will be excluded from computing and determining strengths in the controlled grades. Exclusions from grade table accountability in current law total 13 percent of the total active duty commissioned officer strength. Under the proposed legislation, this figure is reduced to seven percent.

Since the officer grade structure is an end result of the operation of the system, any significant adjustments to the grade tables must consider the interactive effect such adjustments would have on the elements of the system that produced the grade parameters. The Department has extensively examined the grade tables in H.R. 5503 and validated that they will permit optimal operation of the system.

The Department views the grade tables as a means by which Congress can provide long range planning guidance to the Services. They have been designed to be flexible enough to last and thus avoid the need for coming to Congress for

periodic grade relief. Further, they are the means by which Congress can insure that an adequate system of career progression will be available to attract and retain quality officers to fulfill the future leadership requirements of the nation's Armed Forces. Operating in tandem with the control and oversight of Congress during annual authorization processes, they help insure that the actual inventory is managed to meet the nation's needs. Together with other system variables, the grade tables provide a systematic framework for balanced inventory management. The Department recommends that the grade tables in H.R. 5503 be enacted at this time.

I have summarized the major features of the bill and the management system it is designed to support. If the proposed changes are made too abruptly, however, they could adversely affect the careers of many officers. For that reason the proposal contains extensive transition provisions. They are too lengthy to cover in detail in this statement but I would like to cite a few examples.

Regular Army and Air Force officers serving in the permanent grade of major will be permitted to serve until 21 years of service and retirement eligibility, which is the expectation they have today. Permanent majors serving in the temporary grade of lieutenant colonel will be entitled to the career expectation of 26 years provided for lieutenant colonels in DOPMA. Those officers serving on active duty on the effective date of the bill who are subsequently involuntarily discharged or released from active duty will be entitled, at their election, to compute readjustment or severance pay up to the authorized maximum of \$15,000 under the current formula or to compute separation pay up to the new maximum of \$30,000 provided by H.R. 5503. In general the new formula will not provide for more than the current \$15,000 ceiling until an officer completes about 9 years of service.

Cost impact

Before closing I want to cover the cost implications of the proposed legislation. Although DOPMA was not designed primarily as a cost reduction measure, it can result in long term life-cycle savings when compared against the current management system. Comparing the two systems in a stabilized force or steady state simulation indicates annual life-cycle savings of about \$219 million can be realized under the proposed management system. However, with the revision to separation pay provisions contained in H.R. 5503, the Department estimates that about \$34 million at constant FY 78 dollars would be required for implementation of DOPMA during the first five years following enactment. About \$22 million, will be required in the first full year following enactment of DOPMA to fund initial transition actions.

I would conclude by recommending that the legislation not be judged on the basis of any single aspect, but in terms of our overall objective of improving and better rationalizing the officer personnel management system for the military services. To be successful, we will need a satisfactory balance between the management interests of the Department of Defense and the personal rights of the individual officer. I believe this proposed legislation achieves such a balance. It preserves the best features of the current system while correcting deficiencies. It will help us meet the challenges of the Department's long-range leadership needs.

Mr. Chairman, that concludes my prepared statement. I will be happy to answer your questions.

Senator NUNN. General, do you have a statement this morning.
General UMSTEAD. No sir, I do not.

TURNOVER OF GENERALS AND ADMIRALS

Senator NUNN. Thank you, Mr. Secretary.

I don't see much concern expressed about the increased turnover of general officers or the sharp decline in the total years of experience of admirals and generals as admirals and generals. We have been involved in this for a couple of years now and it has just come to my attention, as far as some of the statistics are concerned, the average naval flag officer now has served only a total of 3.2 years as a flag officer. That is down 35 percent from the average number of years of 4.9 in 1968.

Is this a trend that has come about because of personnel policies or is this something that is intentional? In other words, is this an inadvertent result of present personnel policies or is this an intentional move on the part of the Department of Defense to see that generals and admirals have less experience?

Mr. WHITE. No sir, it is not the intention of the Department of Defense that generals and admirals have less experience. I think there have been changes in terms of the size of the force over time which has tended to shorten it in the short run.

My understanding with respect to the Navy in particular and Admiral Winnefeld perhaps could answer, he is here, my understanding is that they are now in the process, given the changes proposed here, of reexamining their system. My own view is that that kind of shortening is not desirable. As you know, we are anticipating that we will be coming back after DOPMA is out of the way with a revised system for the management of generals and admirals.

Senator NUNN. Well, of course, what happens to colonels and majors affects the number of generals and admirals. As you know, it is all tied together. I don't think there is any way of completely separating the two.

Mr. WHITE. No sir, I agree, I think that is right.

Senator NUNN. The average Air Force general officer now serves a total of 3.7 years as a general officer, down 30 percent from the average of 5.2 years in 1968. Only 18 Air Force general officers are over the age of 55, and the average total years of service is 27, well below the 30 to 35 envisioned by law.

Is this something that has come about because of policy or is this an inadvertent result?

Mr. WHITE. I think it has to do with the size of the force being drawn down and the dynamics this creates in terms of your promotion system. When you go in that direction and you tend to draw down the number of senior people, your average promotions are going to go down and when your promotions go down you are going to have a tendency in the short run for the career length to shorten.

Senator NUNN. Is there any connection between the—if the admiral would like to answer this—the severe management problems the Navy is having with some of the shipbuilding programs and the tremendous turnover in admirals who are managing the program?

Mr. WHITE. Not to my knowledge, Mr. Chairman. I think that part of the Navy's problem from their point of view is not having an adequate number of admirals.

Would you like Admiral Winnefeld to respond?

Senator NUNN. That will be fine.

Admiral WINNEFELD. I think you would have to look at the specific communities concerned when you are speaking of admirals tenure in that light, Mr. Chairman.

Specifically, these would be the engineering duty officer admirals, and I do not have their statistics on tenure. My perception is, however, that their turnover has not been any greater and perhaps a good deal less than the average in the force.

I might point out that while apparently the average length of service upon retirement of general officers and flag officers has apparently declined, my figures indicate that it is something over 6 years of service in flag grade that senior officers serve.

Senator NUNN. The average is 3.2, Admiral?

Admiral WINNEFELD. Yes, sir, the average time as a flag of the current force.

Senator NUNN. What are you speaking of when you say 6 years?

Admiral WINNEFELD. That would be the average total length of time that an officer would serve in the flag grade prior to retirement, which, of course, is a different parameter than the average time as a flag of the current flag force.

Senator NUNN. If you say the total length of time an officer would serve in that grade, and we say the average is 3.2, which staff tells me the figure has been checked carefully and it is correct, how do you reconcile those two?

Admiral WINNEFELD. Because some of those admirals and generals have just been promoted and have zero time and others have 6 or 7 years of time, and of course, the figure that you are using is the average but there are obviously people on both ends of that average.

Senator NUNN. You have to have a lot around zero level in order to bring it down then, don't you?

Admiral WINNEFELD. Well, you would have to have a large number also at the other end, sir to make that the average.

Senator NUNN. We are both right then?

Admiral WINNEFELD. Yes, sir.

[Laughter.]

Senator NUNN. That is a pleasant result.

Admiral WINNEFELD. The only point I would make, I think you have to use both perspectives. While the 3.2, I forget the exact figure that you used, does seem small, on the other hand, 6 looks a little larger, and that is the average time that an officer would spend in the flag grades.

Senator NUNN. It seems to me there is a strong case that can be made if the average stay is only 3 years as a general officer then perhaps you don't even need that many general officers.

Admiral WINNEFELD. Sir, that is not what your statistics tell me.

Senator NUNN. I didn't think you would read it that way.

Mr. WHITE. May I go back to the Air Force comment for a moment, the 5.2?

Senator NUNN. I might add I don't have the figures. I am told the Army has exactly the same trend in terms of going down, in terms of the average length of time people serve as general officers.

Mr. WHITE. If you look at the 1968 period, Mr. Chairman, you will find that, in fact, what happened in both the Army and Air Force is that the number of officers who were in the top three grades were all essentially from the same year groups. Since they were World War II veterans, that was a natural outcome. With the size of that group of officers, who were promoted and then retired together as two-star generals, or in some cases as three and four-star generals and were all essentially in the same year groups, it seriously degraded promotion selectivity in the future. Consequently, in the early seventies there were problems in the major general grade, particularly with an adequate number of new people who could serve fully in the three- and four-star grades. So, we have had to, over the last 10 years, realine our senior officer structure in order to provide the flow, selection opportunity and selectivity needed to sustain the general officer structure in the future.

So, what you are seeing here is basically a transitory effect.

Senator NUNN. If you go back to 1958, skipping over this time frame you had some distortions in it, the average length of military service of an admiral was 30 years. Today it is 29 years.

Mr. WHITE. Yes, sir.

Senator NUNN. What are your plans for the future, which is the general direction you want to go in? Do you want more experience in your flag officers or do you want less experience?

Mr. WHITE. The services can speak to this but I will give you my personal view. My personal view is that you want more experience. You get that experience by promoting officers to the one-star grade relatively early, which allows them to compete for the two-, three-, and four-star promotions in sufficient time so that they have an extensive career as a general officer, serving an adequate number of years and at least one full tour or more in each of those grades.

That then comes, you see, to something like 12 years, at least, on active duty as a flag officer. That is my personal view.

Senator NUNN. Well, let's ask the services what their view is. General Umstead?

General UMSTEAD. Well, I think the period that we are examining right now, as Dr. White said, is transitory in nature. If you examine any period since World War II you are going to find the effect of a large number of flag officers and general officers who spent the predominant part of their years of service in those ranks. This distorts the data that we have today tremendously and as we move into a newer era where we have not had such early promotions as we had during World War II, into the flag ranks, we will see a general shortening of the overall years of service. We will also see a situation where an individual general or flag officer will not spend as many years in that rank as a general promoted earlier with his same years of service.

Dr. White's comments regarding our objective to promote early is certainly true. We would like to bring our more promising officers up and put them in as colonels at an early age so we can evaluate their potential for promotion to general officer. Then, if appropriate, promote them to brigadier general where they will still have adequate time in their careers to progress on up to higher ranks.

Senator NUNN. Isn't this what is really happening now? The problem is you are getting them in early as generals, the ages are down, and you aren't keeping them there. You have a large number of generals and admirals and you are turning them over. They are coming in as generals and admirals now earlier than they were.

Mr. WHITE. You see—

Senator NUNN. They are just staying in less time because you have so many of them.

Mr. WHITE. No sir, what is happening is the transitory problem whereby you had large numbers in the top three grades, who were all of the same year groups, and they left all essentially at the same time. That is not what you want. You want a more even flow. It is going to take several years to work that flow out. The mandatory retirement rules have not changed, the senior people stay as long but they do not, as General Umstead said, experience as long a career as flag officers as World War II people did but they stay as long.

Senator NUNN. You have only 18 officers in the general officers over the age of 55 now.

Mr. WHITE. I don't know what that was in 1968, Mr. Chairman, or 1958. I expect it was probably about the same. It may have even been younger. General Ryan, former Chief of Staff, was a general officer with 19 years of service. We don't do that anymore.

Senator NUNN. We recently received responses to the questions I had written on generals and admirals. We will make that a part of the record today.

[The questions with answers supplied follow:]

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C.

HON. SAM NUNN,
*Chairman, Subcommittee on Manpower and Personnel, Committee on Armed Services
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Secretary Duncan has asked me to provide this further reply to your letter, dated June 2, 1978, which forwarded detailed questions on the Secretary of Defense's Report of General and Flag Officer Requirements.

I believe the attached answers are responsive to your request and hope they will be helpful in your further deliberations on DOPMA.

Sincerely,

JOHN P. WHITE,
*Assistant Secretary of Defense,
(Manpower, Reserve Affairs & Logistics).*

Attachment.

Question 1. Since there is no discussion of deferral of reduction in DOD civilians (GS 13-18) in the SecDef April 1978 Report of General and Flag Officer Requirements can it be assumed that DOD intends to meet the reductions as specified in Public Law 95-79?

Answer. Barring relief by the Congress, the Department will comply with the reduction in civilian general schedule grades 13-18 consistent with the reduction in the percentage reduction of flag officers.

DOD did not separately appeal the civilian reduction because it did not seem necessary or appropriate based on the wording of Public Law 95-79 and the associated Conference Report. The civilian reduction was coupled to the military; hence, relief from the flag officer reduction would also mean relief from the civilian high grade reduction.

Question 2. In the SecDef Report numerous comparisons are made between the number of General Flag officers and the number of high grade DOD civilian employees. Does DOD consider that the number of high grade DOD civilians is justified?

Answer. DOD does consider that the number of high grade civilians shown in the fiscal year 1979 Budget is justified. The comparisons between DOD military and civilian managers were used to show the manpower mix by function and the change over time, not as a justification for the number of flag officers. Further, the Department considers the concept of an absolute ceiling inappropriate. Civilian grades are established through DOD's position management system. The key to maintaining grade control is for this to be an effective system. Grade ceilings do not improve position management since they attempt to force grades without regard to the duties and responsibilities of the position.

Question 3. Since, in many cases, the justification of the number of high grade DOD civilians is the same as that used for General/Flag officers, would it not logically follow that in the analyses performed in the report the sum of these two be used?

Answer. The analyses performed in the report included the sum of the flag officers and DOD civilians in appropriate cases. Table IV-7, IV-8, IV-9 and V-1 are illustrative. As indicated on page 59 of the report the combined analysis of flag officers and DOD supergrades provides a broader view of the magnitude of resources managed and also permits a reasonable comparison with the private sector.

Question 4. Of the 1,119 flag officer billets planned for fiscal year 1978, identify those billets that have been changed from Colonel/Captain to flag rank or from flag rank to Colonel/Captain in the last 20 years. Were any of these changes from Colonel/Captain to flag rank made because of the inability of the incumbent to perform the job?

Answer. We are unable to provide a listing of the billet changes over the last 20 years because adequate records documenting those changes are not available.

None of the billet changes from Colonel/Captain to flag grade were made because of the inability of the incumbent to perform the job.

Question 5. How does the DOD explain the fact that the Navy uses captains as well as admirals as commanders of naval shipyards? Do the captain/shipyard commanders perform their business less efficiently because they are not flag rank?

Answer. In order to put the answers to these questions in proper perspective, the nature of the work performed by naval shipyards must be clearly understood. The eight naval shipyards are large, specialized industrial organizations engaged in the repair and overhaul of nuclear submarines or surface ships and numerous type and classes of complex combatant ships which contain highly sophisticated weapons systems and power plants. They employ over 65,000 civilian workers, representing over 100 different trade skills. Thus, the naval officer selected to manage one of these yards must be highly qualified in one or more of the engineering disciplines, such as naval architecture, nuclear power, and the electrical electronics, weapons, and mechanical specialities.

The question addresses quantitative and qualitative performance indicators which are not available. Each shipyard has a different mission, size, workload, and management problems. Each might under some circumstances warrant the assignment of a flag officer. Those currently provided a flag officer billet meet this requirement. At this time, the fact that some shipyard commanders are flag billets, filled with flag officers, while others are filled with captains, is indicative of a shortage of Navy flag officers in relation to total requirements.

Question 6. On page 2 the report states: "today's flag officer is faced with increasingly important management responsibilities in technological, political, and economic spheres".

(a) How many flag officers have a technical undergraduate background, i.e., how many engineering degrees, science degrees? How many flag officers have an undergraduate degree in economics? How many flag officers have technological experience, i.e., duty as engineer, experience in a direct field?

Answer. The following table depicts the number of flag/general officers in the Department who have an undergraduate/graduate level education in the technological or economics disciplines. Also included is information relating to the number of officers who have had experience in a technological field.

Technological degree-----	738
Economics degree-----	39
Technological experience-----	510

Question 7. On page 5 the report states that there is a "need for senior military representation on international staffs and bodies".

(a) Of the 1,119 flag officer billets planned for fiscal year 1978, identify those billets or positions which have been upgraded to flag rank or originated as flag rank in international staffs in the last 30 years. Identify why a flag rank was required.

Answer. Flag officer billets planned for fiscal year 1978 in international staffs are identified in Appendix J. to the report. A 30-year history of justification for each position is not available; however, the need for flag officers in international staffs is governed, as in all other cases, by the roles and missions the organizations must perform. In NATO, for example, the principal task of deterrence and its related actions to maintain effectiveness, sensitivity to issues, access to Allied counterparts, and influence on both current operations and long-range planning are the major factors which drive the distribution of flag officer requirements.

(b) Identify those billets or positions which have been upgraded from 1 to 2 star, 2 to 3 star, 3 to 4 star, for the last 25 years. Identify why this change was required.

As shown by Appendix K various flag officer billets in international staffs have been downgraded or disestablished in the past 25 years. All except one presently have the same grade authorized at the time they were established. In June 1969 the grade authorized for the NATO position of Chief of Staff, Allied Forces Southern Command, was upgraded from major general to lieutenant general. The officer assigned to this position supervises the staff of an international combined headquarters for a major command of the Supreme Allied Commander, Europe, and must frequently reconcile divergent views of Allied countries in the Southern region while maintaining the solidarity and harmony of the organization. The assignment of a lieutenant general has demonstrated to our Allies the U.S. commitment to defense of the highly important southern flank of NATO.

(c) What effect would accrue to National Defense if flag rank in international staffs were reduced by 50 percent?

A 50 percent reduction of flag officers in international staffs would be perceived by other nations as a drastic curtailment of U.S. commitment to its alliances and could greatly impair our national defense efforts.

In the international military environment the rank of an officer is commonly a major factor in determining his level of access and degree of influence with counterparts from other nations and in the national capitals with which he must deal. The ultimate effectiveness of U.S. efforts within international organizations is significantly affected by the grade of representatives.

The serious effects accruing to national defense from such a reduction are easily visualized. In NATO, for example, our representation in SHAPE would diminish from 30 to 15 of 145 flag officers, leaving the U.S. with only 10 percent of the total senior military positions and fewer than the number presently occupied by either Germany, Italy, or the United Kingdom. Also, a loss of any of the three U.S. flag officers (out of ten total) would seriously impair our influence in SACLANC. Having the U.S. positions in the Delegation to the Military Committee could have equally severe consequences.

Question 8. On page 6 the report states: "Further reductions cannot be justified on sound management grounds. Dollar savings which would accrue from such reductions, in terms of salaries as well as organization expenses, are insignificant in comparison to the risks associated with the management actions needed to achieve them."

(a) By this statement does the DOD feel that the only reason for reducing the number of flag officers is to save their salaries?

No, however, the presumed high costs associated with flag officers and their staffs were thought to be a concern of Congress. The table and discussion on pages 49 and 50 were included in the report to place the actual costs of management headquarters in better perspective. For example, the cost for support of all the management headquarters in Program 9 (which contains the major service headquarters in and 42 percent of the DOD flag officers) is only \$455 million, or less than .4 percent of the Department's TOA.

(b) What are the risks that the report is referring to?

(c) What management actions is the report referring to?

Chapter VI C of the report discusses the impacts of (risks, management action, etc.) of further flag officer reductions. The principal risks are summarized on page 7 following the statement which elicited these questions and include degradation of leadership, management effectiveness, U.S. influence in international security affairs, and career attractiveness.

(d) Can DOD see any other reason why the number of flag officers should be reduced to a minimum?

There are several valid reasons for increasing or decreasing the number of general and flag officers. These include changes in Defense missions, organizations, or management functions. Chapter VI A of the report discusses Departmental initiatives taken since 1973 in reducing 150 flag officer positions.

(e) Were any of the following factors considered in the reduction of Flag officers?

(1) The effect on reduction on overall officer requirements for all grades including a reduction in both civilian and military billets. The number of levels of management a technical or operational idea must presently go through prior to approval. The number of studies required to be repeated year after year on the same topic because a new executive needed to look at the subject again. The increased speed of operations due to less redtape.

This question implies that organizations and manpower requirements are created and maintained to support and justify the existence of flag officers. This thesis is belied by the many unfilled flag officer positions and the reorganization initiatives resulting in flag officer reductions as described in Chapter VI.

The primary factor used in considering military or civilian grade reductions, position elimination or reorganization is the effect of the given action on our capability to support national security objectives. Although all positions are analyzed to insure that we are managing effectively and efficiently, the review process is comprised of many other factors. For example, our responsibility to the Congress and the taxpayer dictates thorough staff and management review of technical and operational concepts to insure that weapons development, acquisition, and employment will meet operational needs of the Department in future years. Furthermore, it should be emphasized that Command and Management lines are minimized to provide a rapid response capability in the event of a national emergency.

Currently, general/flag officer and senior grade civilians provide decision points for major issues at the lowest possible level within an organization. Their elimina-

tion would require that these major issues be referred to the next higher management level thereby increasing staffing time before significant operational or administrative actions could be taken.

Question 9. On page 7 the report states: "Officers selected for flag rank are at the peak of effectiveness".

(a) What is meant by the term "peak of effectiveness"?

Answer. Peak of effectiveness means the high point in an individual's ability to produce results as indicated by proven performance. In the case of flag/general officers, it represents the maximum capability to influence by the application of experience and developed skills from a position of great and demanding responsibility.

(b) Does this mean at that age the individual is at a peak? Why would this peak change if the individual remained as a Colonel/Captain?

No, not age, but rather grade and position to influence. Although the capability to produce at the grade of Colonel/Captain might be just as great, the opportunity to influence is greater at flag grade.

(c) Is the report implying that when an officer makes flag rank, he is by definition at his peak?

Yes, primarily by virtue of the influence he commands by the application of his skills from a position of great scope and responsibility. This peak would continue throughout his service at flag officer grade.

Question 10. On page 7 the report states: "To the contrary the weight of available evidence indicates a requirement for more, not fewer, flag officers".

(a) What evidence is referred to?

Answer. The report produces several different kinds of evidence which supports a requirement for more flag officers including:

A trend calling for intensified top-level management not matched by an increased number of flag officers.

Many position requirements not filled at the flag officer level and, References to the private and public sector.

The reference to the private sector includes the findings of the Conference Board, Inc., of New York. Their study compared executive level staffing in DOD with seven large corporations whose essential characteristics came closest to matching those of the military establishment in terms of size, diversity of functions, geographic dispersion, coordinated planning and control, etc. The results of this study showed that the executive level staffing of the Armed Services was significantly less than the companies studied. The executive level staffing in the corporations studied was five to thirteen times higher than flag officer staffing in DOD.

In the public sector, the growth of executive level staffing has increased. Within the Department of Defense, the increased requirements have been met by increased utilization of civilians while the number of flag officers have remained relatively stable. Chart V-3 shows the extensive growth of executive level management in the federal government.

Question 11. On page 7 the report states: "Further reductions would simply cause degradation of leadership, management effectiveness, U.S. influence in international security affairs, and career attractiveness."

(a) How and where would this degradation occur?

(b) Would all reductions be equally susceptible to this degradation?

(c) Which positions would be least effected by this degradation?

Answer. The detailed response to this question is addressed on pages 78-86 of the report, together with a summary of the potential impact of reductions by function. Each of the 1,119 authorizations for fiscal year 1978 were categorized by function in an effort to highlight those areas most affected by a reduction. The reductions would be spread throughout the functional areas.

As noted in the report, approximately 30 percent of the reductions would be in the logistics and research and development areas. The projected loss of this executive management and leadership resource will seriously hamper DOD efforts to fulfill its defense mission.

Question 12. In reference to the tasks assigned by the Review Board discussed on page 10:

(a) What was the rank or grade of the individuals who served on the review board?

Answer. The civilian title or military grade of the members of the Review Board are: Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics (M, RA&L)), Executive Level IV; Assistant Secretary of the Army (M&RA), Executive Level; Assistant Secretary of the Navy (M, RA&L), Execu-

tive Level; Assistant Secretary of the Air Force (M, RA&I), Executive Level; Vice Chief of Staff, United States Army, General; Vice Chief of Naval Operations, Admiral; Assistant Commandant, United States Marine Corps, General; Vice Chief of Staff, United States Air Force, General; Director of the Joint Staff (OJCS) Vice Admiral; and Deputy Assistant Secretary of Defense (Administration), GS-18.

(b) In accordance with the task assigned by the Review Board, what billets were identified for special evaluation?

The billets identified for special evaluation included Training/Education, General Counsel, civilian supergrade staffing in R&D, flag officer staffing in R&D, assistant deputy chiefs of staff in the same function. These were examined to determine if unnecessary duplication was apparent, or if disparate allocations of billets among the Services were warranted. The Review Board determined that the number of billets was appropriate to the respective requirements of each Service mission.

(c) Was a billet review required to be conducted of civilians by the Review Board? If not, why not?

A position-by-position review of civilian positions was not conducted for the reason stated on page 36 of the report. In addition, the conference report accompanying Public Law 95-79 directed a report on general officers, not civilians. Nonetheless, the distribution of supergrade civilians, GS-16 through GS-18, was reviewed (and included in the report where appropriate) in order to identify total executive resources in DOD.

(d) Does the report conclude that the resources managed can be used to compare billets for flag officers? If yes, how does the DOD explain the facts presented that the Naval Admirals are managing over twice the resources of the Army per flag over 50 percent more than the Air Force as shown in Appendix Q?

As stated on page 55 of the report, relating flag officer positions to TOA and Manpower does not provide a sufficient degree of precision to provide a basis for quantitative justification of each position. The tables in Appendix Q were included primarily to show trends, not for inter-service comparisons. The amount of resources managed should not be judged independently of other available data, such as organization structure, nature of defense mission, weapon systems complexity and the total number of executive personnel assigned. While the Navy has a higher level of resources managed per flag officer, the inclusion of supergrades, especially in R&D, changes the relationships. With the addition of supergrades to the flag officer numbers, the Navy manages only slightly more TOA than the Army and less TOA than the Air Force per executive. This is because the Navy has more supergrades and equivalent personnel than the Army and the Air Force. Because historical data for supergrades was incomplete, trends for this group could not be presented. However, the table in Appendix P was prepared to show the current distribution of both flag officers and civilian supergrade and equivalent level positions by sponsor and function.

Question 13(a). How long do Flag Officers remain in the military once making the Flag rank?

Answer. The average length of service in general/flag officer grades for those officers who retired in 1977 was 6 years and 1 month.

(b) If they are at the peak of effectiveness, why are they not kept longer?

The Department of Defense believes that service in excess of six years of peak performance in flag/general officer grade is effective utilization. Determinations of retention are made on a case by case basis. In the case of the more senior three- and four-star flag/general officers, an even longer period of proven effective performance and contribution is realized.

(c) What are the age comparisons of Flags in Wartime (WWI, WWII, Korean, Vietnam) compared to today?

A comparison of flag officer ages during wartime as compared to today is shown below:

World War I.....	55.6
World War II.....	52.1
Korea.....	53.9
Vietnam.....	51.3
Today.....	51.0

Question 14. On page 15 the report states: "While changing national policies may require smaller combat forces, the Nation's overall defense posture must be maintained in such a state of readiness so as to be immediately responsive. This strategy requires essentially the same management structure in peacetime that we have in war."

(a) Does this mean there would be no changes in any areas in event of war?

Answer. No. We anticipate that changes will be required in event of war. The changes, however, will be dependent upon the situation we face to include the location and the size of the force required to meet the immediate and the long-term threat.

(b) Which areas would increase the greatest?

Operational forces and the additional forces required over and above the peacetime standing forces will require flag officer leadership, to include Guard, Reserve, and counting every force not in being. Most probably, the Army and the Marine Corps general purpose forces would be the first affected. Again, depending on the threat the additional operational and support forces would require an increase in flag officers.

(c) Which areas would not be affected by war?

Probably no area would be unaffected by war; however, for example, we would probably not increase the number of flag officers on the Joint Chiefs of Staff nor require any appreciable change to the number now assigned to the Service Secretariat or Headquarters staffs. Increases would occur if Reserve Forces flag officers are mobilized in their mobilization billets which are predetermined in the Services mobilization plans. There are certain fixed overhead management requirements that must be met whether we are at war or at peace.

Question 15. On page 27 the report states that the sponsors (DOD components) employ a common set of DOD Officer position criteria for evaluation of each candidate's position. But when looking at the number of flags per function as described in Appendix P there does not appear to be a consistency between the services as to how these criteria are put into actual practice.

(a) What comparisons have been made on the various branches of the military to see if they are consistently applying the criteria established by the DOD?

Answer. The number of flag officers per function is not a measure of consistency of application of the criteria among the Services. The Review Board evaluated the distribution of flag officers in the various functional areas (Appendix P), and determined that the numbers assigned were consistent with the respective mission assigned each Service. The distribution of the numbers of flag officers within each Service must also be considered in light of the number and distribution of supergrades.

(b) What review procedure is presently being used to ensure that there is consistency between the branches of the Services.

There is no continuing review process established by DOD to monitor "consistency" among the branches of the Services. However, the periodic DOD reviews and studies discussed in Chapter III tend to bear out a reasonable degree of consistency. The Department has contracted with an outside consultant to evaluate the criteria used to validate a flag officer position. The results of that study may assist in subsequent Department level reviews of flag officer requirements.

Question 16. On page 28 the report states: "There are reasonable & carefully administered processes for the determination and review of flag officer requirements." All that appears to be presented in this report is a very general set of criteria that allow some form of ranking of importance of flag officers for each service and an allocation of those flag officers allowed to the billets until the authorization is used up.

(a) Provide a specific listing of the processes the DOD follows to review flag officer requirements.

Answer. Appendix H describes the process each sponsor follows to review its flag officer requirements. In 1968, 1972, and again in 1978, DOD conducted a review of flag officer requirements and the process by which individual flag officer requirements were identified, evaluated and validated. In addition to sponsor controls over flag officer positions, Title 10, U.S.C. implemented by DOD Instruction 1320.4, designates three- and four-star billets as positions of "importance and responsibility" requiring a nomination and review process. The process includes the review and concurrence of the Secretary of Defense, the approval by the President and confirmation by the Senate.

Although the criteria shown in Appendix I may be considered to be general and subjective in nature, they can be and are applied by the sponsors in developing specific justifications and descriptions of position requirements. While some of the elements of the criteria can be quantified, there is no precise measurable threshold at which a position becomes a flag officer requirement. This is a subjective process requiring the experience and judgment of our top military and civilian leaders.

In comparison to civilian industry practice, executive level position criteria are not qualitatively different. In some cases they are more detailed and comprehensive.

sive. Even the point system employed by Hay Associates for determining compensation levels has a more general set of qualitative criteria upon which its quantitative measurement standards are superimposed. DOD is exploring the possibility of development of more quantifiable criteria for determining flag officer requirements; however, at the present time we know of no better or appropriate method than the one presently employed.

Question 17. On page 32 the report shows strength dependent and structure dependent billets.

(a) What is the definition of structure dependent and strength dependent?

(b) Which commands fall into each category?

Answer. As stated in the report on page 33, Billets categorized as "structure dependent" were those in organizations which constitute, by and large, the permanent military structure of the Defense Department—support commands, materiel facilities and the like which would be sensitive only to strength changes of great magnitude. The billets classified as "strength dependent" were those judged to be closely associated with strength. The Strength Dependent category includes operational field and training units and commands and those other units where the flag officer billet is linked to the number of men being led or trained, such as commanders of infantry divisions, air divisions and fleet training groups.

It must be recognized that there is no precise rule for placing positions into either category and that this analysis was merely an attempt to gauge the sensitivity of flag officer requirements to force size.

(c) The comparison of 1964 with 1968 shows a decrease in number of structure. Was this due to a shift of personnel to the field in order to meet military requirements?

The decreasing trend in structure dependent positions between 1964 and 1968 continues for 1979. This decrease may be explained, in part, by a shift of personnel from headquarters elements to the field, such as establishment of COMUSMACV staff, during the Vietnam conflict. Other factors such as departmental and major command reorganizations have influenced the trend since 1968.

(d) Please perform the same analysis by DOD Component (Service, OSD, JCS, TOTAL).

	1964		1968 ¹		1979	
	Number	Percent	Number	Percent	Number	Percent
Flag officers:						
OSD.....	63				49	
JCS.....	231				158	
Army.....	397				339	
Marine Corps.....	53				61	
Navy.....	224				200	
Air Force.....	314				292	
Civil works and reimburseables.....	8				20	
Total.....	1,294		1,352		1,119	
Strength dependent:						
OSD.....	0				6	12.0
JCS.....	36	16			13	8.0
Army.....	138	35			140	41.0
Marine Corps.....	19	36			21	34.0
Navy.....	59	26			37	18.5
Air Force.....	122	39			89	30.0
Total.....	374	29	466	34	306	27.0
Structure dependent:						
OSD.....	63	100			43	88.0
JCS.....	195	84			145	92.0
Army.....	259	65			199	59.0
Marine Corps.....	34	64			40	66.0
Navy.....	165	74			163	81.5
Air Force.....	192	61			203	70.0
Civil works and reimburseables.....	8	100			20	100.0
Total.....	920	71	886	66	813	73.0

¹ Distribution for 1968 was based on the report of a 1968 DOD general/flag officer requirements study (see app. E of the report) and a breakdown of the totals is not available.

(e) Perform the same analysis as given on page 32 for the Korean War.
The following is an estimate of the distribution of flag officers in 1953:

Flag officers-----	1, 197
Strength dependent (22 percent)-----	266
Structure dependent (78 percent)-----	931

Question 18. On page 50 the report states: "No attempt was made to validate civilian requirements—in view of the close position management provided by the Civil Service Commission."

(a) Does this mean that the DOD maintains no control over civilian management positions?

(b) Does DOD therefore believe that the Civil Service Commission has maintained the minimum number of supergrade civilians in DOD?

(c) Does this mean that DOD would agree to any reduction-in-force proposed by the Civil Service Commission?

Answer. DOD supergrade authorizations are controlled centrally by the OSD and Service headquarters staffs in a system similar to flag officers. Executive assignment boards review each requirement and allocate the shortages in available authorizations so as to minimize mission impairment. In other words, DOD intensively manages its supergrade positions. The Civil Service Commission limits certain types of supergrade billets. As with the ceiling on flag officers, their number has been arbitrarily constrained below the requirements level; hence DOD would certainly not arbitrarily agree to any RIF proposed by the CSC.

Question 19. On page 36 the report states that one of the objects of the DOD flag officer review was to: "Determine which positions required closer examination due to possible layering of authority, different treatment of similar functions by different sponsors, and apparent overlapping of functions by civilian and military personnel within the same staff element?"

(a) What was the result of this portion of the review?

(b) Which billets were identified?

Answer. The answer to this question is included in response to question 12b.

Question 20. On page 41 the report states: "There is ample evidence that the demands for top executives have substantially increased during this 24 year period."

(a) What evidence is referred to?

As discussed in Chapter V of the report, our research indicated an increase in the number of principle executives in several large corporations during the period 1954-1975. This increase only took into account principle corporate executives and not all other executives who would perform functions fairly comparable in responsibility to DOD flag officers and supergrades. The increased need for executives in industry since 1954 can be attributed to many factors such as increased complexities in managing the work force. For example, management today is required to have a viable equal opportunity program and has an increased need to effectively manage people and be aware of employee needs. This is important because today's executive has had to move away from being the "traditional" manager of the past and come to grips with the reality that the efficiency of an organization's operation is directly related to employee satisfaction with the job. In other areas, the increasing complexity of and need for research and development, and emphasis on corporate planning have also spurred the need for more top level executives in order to effectively produce the results needed to remain competitive.

(b) What does DOD mean by the term "management infrastructure" as used on page 45?

The term "management infrastructure" is used to explain why there is a high percentage of flag officers in the "Support Activities" category of table M-2 in Appendix M. This category includes the basic management framework for the Department and the Services.

Question 21. On page 50 the report states: "There are 612 flag officers in Management Headquarters. Of this total, 258 or 42 percent are in Program 9 where the major service headquarters are funded. At the same time, the cost of the Program 9, Management Headquarters elements is \$455 million or 22 percent of the TOA (total obligation authority) for all Management Headquarters. Viewed another way, while Program 9, Management Headquarters has 24 percent of the 1,119 DOD flag officers, it takes only .39 percent of the TOA."

(a) Does this mean that DOD believes that it is good to have 24 percent of the total flag officers be responsible for less than half of 1 percent of the total obligation authority of the DOD?

(b) In looking at Table IV-6, is the DOD saying that having over 50 percent of the total flag officers being responsible for less than 2 percent of the total obligated funds is the best allocation of flag resources?

Answer. These questions reflect a misinterpretation of the material presented in the report. Footnote 1 at the bottom of page 50 states, "it should be noted that the TOA of Management Headquarters does not represent the total responsibility of the flag officers in those headquarters because they manage and are responsible for resources outside the Management Headquarters program elements." As stated on page 50, the purpose of the analysis shown in Table IV-6 was to demonstrate two points "...—the cost of management headquarters does not increase as a direct function of the number of flag officers assigned and is relatively small compared to the size of the total program managed." Expressed another way, it takes only \$455 million (.39 percent of the TOA) to support the major service headquarters in their execution of management responsibility over a \$116 billion program.

Question 22. On page 54 the report states: "Civilization has yielded undeniable benefits to the sponsor organization but the cost has been a loss of senior military members who bring to these key positions field experience . . ."

(a) Identify how many and which DOD positions are being referred to as being lost in this statement.

Answer. The reference to civilianization is not to the conversion of specific senior military positions to civilian; therefore, no listing of positions is attached. This statement was intended to emphasize the increased requirement for senior DOD executive staffing which was filled by supergrades (reference Table V-3), due to the constraints imposed on the authorized numbers of flag officers.

Question 23. Chapter V, starting on page 62, is an attempt to compare the military flag officers with "external" sources. The following questions arise:

(a) Does DOD mean to imply that they believe the civilians in the DOD are at their minimum level?

Answer. Civilian high grade levels in DOD are at their minimum level. For supergrades, the requirements clearly exceed our current levels.

(b) Does DOD believe that AT&T is the most typical American business firm to which the military can be compared?

No, DOD can not be fully compared to a business. However, AT&T is relatively closely representative of the DOD in terms of a number of factors: total employees assets, revenues and management complexity, due to diversity of operations a large commitment to training and to Research and Development geographical dispersion and provision of a service.

(c) Does DOD consider that a GS-16 or above and a private company employee paid \$39,600 or more are equivalent?

Not necessarily. The report itself indicates that management positions in DOD and the private sector are not directly comparable; however, the use of compensation levels as a common benchmark does provide some useful insights. The salary amount of \$39,600 was chosen as the compensation level for principal executives in a private corporation, because it was the entry compensation level for a GS-16.

(d) Considering chart V-2, is the DOD capable of reaching the U.S. Steel ratio of 24,000 per principal executive?

Is the DOD capable of reaching the 3,000 plus employees per principal executives used by DuPont?

Table V-2 is intended only to demonstrate that there has been a trend in private industry towards a heavier concentration of top executives. As stated on page 64 of the report, Moody's Industrial Manual lists only the "principal company officers" and therefore, the ratios shown in Table V-2 are not comparable to the DOD flag officer/supergrade ratio.

(e) Has DOD confirmed that the four firms identified in Table V-2 page 64 agree with either the calculated values produced by DOD or with DOD conclusions?

No attempt has been made, nor was it considered necessary, to determine if the four companies identified in Table V-2 agree with the calculated values or the DOD conclusions cited on page 64 of the report. The data in Table V was extracted from the corporation profile pages of the Moody Industrial Manual 1976, and the Moody's Public Utility Manual for 1977.

(g) What was the criteria used by Moody's Industrial Manual to list executives in its manual?

The criteria used by Moody's Industrial Manual to list executives in its manual is to include whatever the company submits. Accordingly, the Department limited its analysis of ratios per executive to show trends over time.

(h) Are the so-called "trends" shown in Table V-2 true for all top 25 corporations in the Fortune "500" lists?

The trends shown in Table V-2 are not necessarily true for all of the top 25 corporations in the Fortune 500 list, but rather are indicative of a trend that is found among the corporate leaders in four of the largest industries.

(i) What industrial or private authority agrees with the conclusions that DOD has reached on page 65 that the number of principle executives has increased from 1954 to 1970 to 1975?

None. No attempt has been made by the Department to obtain affirmation or agreement with generally accepted statements of fact.

(j) What documentary evidence supports the report statement that: "It is evident that industry has experienced a growing need since 1954 for additional executives to cope with increasing complexities."

This statement was based on the data collected by the Department and general knowledge. Reference to experts in the management consulting field tends to confirm that the observation is correct, but no formal comprehensive study of the specific question could be identified. More extensive research will be required to determine if specific documentation is available.

Question 24. Chapter V also involves a discussion of the comparison between executives in business and flag officers. Although the report states that it is difficult to compare these two, it does attempt a comparison. The first problem in a comparison of this type is to define who is an "executive" in private enterprise. This is very difficult and there does not appear to be any consistency in this report.

DOD is well aware of the difficulties in attempting to compare top management in DOD to the private sector. The report makes this point quite clear. For this reason several different kinds of comparisons have been attempted. This should not be considered a lack of consistency, but rather an attempt to examine the subject from several different perspectives because there is a lack of a common definition of an executive in private industry as well as a positive linkage between military and private business at the flag officer level.

The most comprehensive and conclusive study of this nature was conducted by The Conference Board, Inc. of New York which conducted a study of the staffing patterns of seven large U.S. Corporations and prepared a special report comparing the private sector and the DOD.

The report recognizes the difficulty of making comparisons between executives in business and flag officers. The approach chosen to make comparisons was on the basis of direct compensation for the private sector, and Regular Military Compensation (RMC) for the Armed Services.

The Conference Board concluded that top-level executive staffing in the corporations it studied was five to thirteen times higher than flag officer staffing in DOD.

Additional private sector overall comparisons were recently completed by McKinsey and Company, Inc., using two approaches to defining "Top Management"—one, as defined by the company and the other, managers with direct salaries above \$50,000. The results are shown in the attached table.

DOD - PRIVATE SECTOR COMPARISON

	DOD	Federal Government Less DOD	Company A (Transportation)	Company B (Aircraft and Parts, Motor vehicle and equipment, Services)	Company C (Fabricated metal parts)	Company D (Machinery and equipment manufacturing)	Company E (Electrical and electronic components, scientific instruments)
TOTALS*							
Top managers	2,356	9,174	56	100	11	16	66
Managers with salaries above \$50K			56	200	11	45	132
Employees	3,029,675	1,959,544	36,467	87,625	16,344	26,393	35,000
Annual budget authority or revenues (\$ millions)	102,000	323,000	2,007	2,929	597	1,520	1,360
Assets (\$ millions)	284,000	411,000	1,715	1,870	348	1,114	1,158
AVERAGES							
<u>Per Top Manager</u>							
Employees	1,286	214	651	876	1,486	1,650	530
Revenues (\$ millions)	43	35	36	29	54	95	21
Assets (\$ millions)	120	45	31	19	32	70	18
<u>Per Manager Above \$50K</u>							
Employees			651	438	1,486	587	265
Revenues (\$ millions)			36	15	54	34	10
Assets (\$ millions)			31	9	32	25	9

* - All numbers rounded to next highest digit

Sources: DOD and Federal Government figures from DOD Bureau of Personnel, Company figures from McKinsey & Company, Inc. telephone survey of personnel officers of the companies.

(a) What would be the results of analyses using that definition as shown in Tables V-I, V-II, and V-III

The analyses shown in Table V-1 and V-3 use this consistent compensation approach. The data in Table V-2 is strictly information from the private sector without direct comparison to DOD and therefore, there would be no change in any of the analyses.

(b) What is the ratio of total officers to flag officers? What is the ratio of officers to enlisted? Is the ratio of blue collar workers to white collar workers greater or less than the ratio of officers to enlisted

The ratio of total officers to flag officers is 244:1. The ratio of officers to enlisted 1:6.5.

As stated on page 67 of the report. The Conference Board study found the active duty officer force made up a smaller share of the total force and received a smaller share of the total payroll than the corporation management force in relation to their total work force. In AT&T, the management group makes up 25.7 percent of the total work force.

Question 25. When responsibilities are listed in DOD position support documents such as those on pages 76 through 78 and pages 80 through 84, are there any other individuals who would also have the same or part of the same responsibilities listed?

Answer. The responsibilities listed in DOD support documents pages 76-78 and 80-84 are not assigned to or shared by the incumbent of another position. Realistically, however, a commander must rely on his deputy and staff to assist in the execution of operations in the commander's absence. The parallel to any organizational structure in the public or private sector is obvious.

Question 26. What system is used to determine the exact limitation of responsibility shown in these type documents?

Answer. There are no specific rules used by the Services to limit responsibility within job descriptions other than the broad review of individual positions conducted by major commanders and agency chiefs.

Question 27. On page 88 and 89 the report states: "A further decline in flag officer authorizations could create serious management deficiencies affecting military capability."

(a) What deficiencies are being referred to?

Answer. The referenced management deficiencies are those the Services anticipate if the number of flag officers is insufficient to provide top level management and oversight of the Service's responsibilities. Too few managers result in a dilution of leadership with increased responsibilities to those authorized. Reductions in flag officer authorizations over the past three years have been made to provide a leaner top management echelon; however, a point has been reached where further reduction will be counterproductive.

(b) What military capability is being referred to?

The overall capability to perform any assigned military mission. If top level managers are spread too thin for adequate supervision and management in their areas of responsibility, we could reasonably expect weaknesses to occur. The weaknesses could be manifested in any area; training, readiness, communications, manpower, operations, or logistics are but a few of the areas where military capability could be seriously affected.

Question 28. The average age for flag/general officers is as follows:

1 star, about 50 years.

2 star, about 52 years.

3 star, about 54 years.

4 star, about 56 years.

(a) What is the average time in grade for promotion from 1 star to 2 star, 2 star to 3 star, 3 star to 4 star How does this compare with the Colonel/Captain promotion time to flag?

AVERAGE TIME IN GRADE FOR PROMOTION TO FLAG GRADE

[Years—Months]

Grade	Army	Navy	Marine Corps	Air Force	DOD
06-07-----	4-1	5-11	4-0	6-0	-----
1-2 star-----	3-6	3-0	2-6	3-6	-----
2-3 star-----	3-11	1-3	3-1	3-5	-----
3-4 star-----	1-10	3-2	2-6	3-0	-----

(b) How is the promotion rate among flags determined?

The promotion to and within flag officer grades is based on requirements for specific numbers in those grades and controlled by the administrative limits of the Secretary of Defense and the grade limitations specified in law.

The number of promotions each year is based on many factors including: Service end strength limitation (SecDef or Congress); service grade ceiling authorization; mandatory and voluntary retirements; estimate of number disability retirements and deaths; and promotions within grades.

(c) What is the average age of private executives? What is the average age of GS-16 to GS-18?

Average age of private executives is unknown. Average age of DOD supergrades is 51.1 years.

(d) If these flag officers are at the peak of their effectiveness, why are they not retained longer in their billet?

See response to 13b.

Question 29. "Please explain why the Army requires 42 Generals and the Air Force 20 Generals to control the Training and Education of their respective services when the Navy can perform this function with only 11 Admirals. Does the Navy have the most technical training of all three services?"

Answer. The classification of general and flag officer positions into specific functional categories was an attempt to simplify and standardize the complex and diverse organizational structures which characterize our uniformed services. Although classification standardization was attempted, it is inordinately difficult to categorize a position in only one functional area. For example, the incumbent of a training and education position may also be a commander; the individual may also have major responsibilities in administration or personnel or in other functional areas. In brief, most flag officer positions cannot be neatly categorized by one specific function; there is considerable overlap, and legitimate differences among the Services based on varying perceptions as to how a particular position should be categorized.

All the services conduct a substantial amount of specialized training. DOD does not measure most technical training loads per se. However, the Army conducts the largest amount of specialized skill training. The annual Military Manpower Training Report of the Department of Defense provides details on training and student loads. The fact that the Navy has only 11 Admirals in the Training functional area is further indication of a shortage of flag officers in relation to total requirements. For example, Appendix G of the report cites the positions of Command, Fleet Training Group and Commander Naval Education and Training command as examples of unfilled flag officer positions.

Question 30. Please explain why the Army requires 29 generals and the Air Force 33 generals to perform the control of the function of research and development when the Navy performs the same function with only 8 admirals.

Answer. The information referenced in the above question is apparently taken from the table at Appendix P of the report. That same table also illustrates the distribution of flag officers and supergrades. While the Navy has only 8 admirals, in the R&D function it also has 273 supergrade civilian personnel. In contrast, the Army has a combined total of 193, and the Air Force has a combined total of 135. It must also be noted that the Navy has the dual responsibility for much of the R&D requirements of the Marine Corps.

Question 31. Please explain why the Air Force requires 13 General officers for the "Inspector General" function when both the Army and the Navy perform this function with only 3 flag/general officers.

Answer. As discussed in Section III B and Appendix H of the DOD report of general and flag officer requirements, the Air Force annually reviews the allocation of general officer positions to meet competing and changing military requirements. The 1978 Air Force general officer authorizations contained in the DOD report reflect the judgement of the senior Air Force leadership and the Chief of Staff in establishing management priorities. The larger number of Air Force flag officers serving in the IG function, as compared to other Services, is a reflection of those priorities.

A specific difference is that organizational structure of the Air Force compared to other Services which places the flying safety responsibility under the IG. A second difference is that the entire Air Force Safety function falls under the umbrella of the IG and includes ground safety, nuclear safety as well as flying safety. In the Navy, for example, the safety mission is the responsibility of the Commander of the Naval Safety Center. This flag billet is coded as "Operation and Readiness," vice "Inspector General."

In summary, the different missions, structure, and management priorities account for the differences in the allocation of limited flag officer resources among the various functional areas.

Question 32. "Please explain why the Army requires 9 Generals and the Air Force requires 7 Generals for 'Intelligence and Security' when the Navy performs this function with only four Admirals. DOD should also explain why there are more flag/general officers on JCS and OSD staff than there are in all of the branches combined."

Answer. The answer to question 29 is largely applicable to this question also. The Navy has fewer flag officers assigned this function because they are organized differently due to mission requirements.

The number of flag officers under OSD and JCS sponsorship in the Intelligence and Security function is a result of that function being centralized in the Defense Agencies, and the number of such billets in the Unified Commands.

Question 33. Please explain what requires the Army to have 69 generals and the Air Force 58 generals to function as Command Operational when the Navy only required 36 admirals.

Answer. The requirements for general officers in the Command Operational area in the Army and Air Force is dependent on the organization structures of these Services as well as the specific operational force and training Defense missions it must support. In recognition of the different organization and mission structure, it would not be meaningful to make inter-Service comparisons of these numbers in the Army and Air Force with the Navy.

Question 34. "Please explain why there is a requirement for 21 Army Generals for Engineering/Facilities compared to the much smaller numbers for the Navy and Air Force. Please explain why there is a requirement to have four Generals at West Point but only one Admiral at Annapolis."

The functional classification of 21 Army general officer requirements as Engineering/Facilities include fourteen reimbursable civil works positions. The Civil Works mission includes planning, programming, budgeting, designing, constructing, and operating water resources, power, water supply, beach erosion control, hurricane protection, fish and wildlife conservation, and public recreation; administering Federal laws for the preservation and protection of navigable waterways; and conducting emergency operations for relief and recovery from natural and national disasters. The Army Corps of Engineers is the principal military capability in many regions of the United States in the event of natural/national disasters. Division Engineers maintain close contact with federal power marketing agencies and with public and private utilities of the area in the water resource and power system operations.

Three of the four Army positions at the Military Academy are authorized by Section 4331, title 10, USC. The nonstatutory Deputy Superintendent position was created in August 1977, in an attempt to enable the Superintendent to concentrate more on academics and training rather than base operations.

There are additional flag officer-level requirements at the Naval Academy. The position, Dean of the Academic Board is a civilian and the billet, Commandant of Midshipmen, is a flag officer position filled by a captain because of the reduction in the number of flag officers authorized.

Question 35. Please provide the number of flag officers serving in OSD and JCS for each service.

NUMBER OF FLAG OFFICERS SERVING IN OSD/OJCS, FISCAL YEAR 1978

Service	OSD	OJCS	Total
Army	10	8	18
Navy	9	10	19
Marine Corps	0	1	1
Air Force	6	8	14
Total	25	27	52

Senator NUNN. I would like to follow up in several areas, there are fewer flag officers in the same function in one service than in another. For example, the Army has 62 generals in charge of training and education. The Air Force has 20. But the Navy has only 11 admirals. You responded in part, "The fact that the Navy has only 11 admirals in

training functional areas is further indication of a shortage of flag officers in relation to total requirements."

If that is true, that is not a problem of too many in the Army but rather too few in the Navy, then why did the Secretary of Defense apply the overall reduction in flag officers made in law which was passed a year ago to an equal percentage in each service?

Mr. WHITE. That was a very modest reduction, as you know, and our—

Senator NUNN. I am glad to hear you describe it as such. I had thought that the DOD position was it was a very severe abrupt cut in the number of admirals and generals.

Mr. WHITE. My view, Mr. Chairman, is that it is a modest number but it is not appropriate because we are short of admirals and generals. However, the number is still small. I don't have any quarrel with you on that. In the Department when we assessed this, we just had a great deal of difficulty in terms of trying to determine exactly, other than in the way we did it, how to allocate that cut.

We did it before we had completed the study that you mentioned with the information we had at the time. That seemed to us the best way to do it.

Senator NUNN. Well, under current law you have got some further cutting to do. Would you anticipate since the Navy is so critically short, according to your statistics on admirals, that you would probably not take an across the board but look at it from the point of view of your need?

Mr. WHITE. I don't know, Mr. Chairman, I think the services in general are short. That is my view. I think we have cut too deeply into senior uniform management structure.

Senator NUNN. I would have to say there are a lot of people who disagree with that.

Mr. WHITE. Yes, sir, I understand. We spent a great deal of time, and I personally spent a great deal of time, reexamining that issue over the last year.

Senator NUNN. It just seems to me unless there is a tremendous difference in training and education, what that encompasses, I don't know. I haven't broken down the definition when you have the Army with 42 generals in one area, the Air Force has half that, and the Navy has a fourth of that many. Therefore, something is either dreadfully wrong in the Navy or something is dreadfully wrong in the Army.

Mr. WHITE. First of all, some of the definitions are different. Second, the missions are different, and the number of people and how they are trained is considerably different. The Army, for instance, has a great deal more emphasis on training in terms of how they are structured and the sort of people that they have.

In the Navy there is a great deal more on-the-job training on ships underway. There is a difference and things are treated differently in the way people are trained, and the services have to make their best judgments as far as resources and how they allocate those managers. The differences per se don't particularly disturb me.

Senator NUNN. What you are saying is when it comes to comparing generals and admirals in the military services, we might give up. There is no basis of comparison, is that right?

Mr. WHITE. I don't think we ought to give up at all. We have provided you, as you know, with extensive documentation of the

system in great detail. We provided answers to those questions which increased that amount of detail. We would be happy to provide more.

But beyond that, these are subjective areas of judgment, there is no question about that. The same with General Motors or anyplace else, in terms of what your management structure ought to be.

Let me also add there is also the problem of mix between the uniform people and supergrades and so on. It is a very complex subject, as you know, and there is a lot of room for judgment.

Senator NUNN. Do you have a shortage of admirals at Annapolis?

Mr. WHITE. Not that I am aware of but I don't know in detail whether or not—

Senator NUNN. Let me ask the admiral, do you have a shortage of admirals at Annapolis?

Admiral WINNEFELD. Let me put it this way. There are two billets for admirals at Annapolis now. The superintendent, which is filled with a flag officer and the commandant of midshipmen, which is filled with a captain currently.

The other billet, which would be a flag billet at the other service academies, is a civilian at the Naval Academy. You are aware we have a significant civilian faculty. The dean of the faculty at the Naval Academy, the academic dean, is a civilian. So we have two billets for flag officers, one civilian that would be a flag officer at another academy and one of our two flag billets at the Academy is filled with a flag officer.

Senator NUNN. One billet is not filled?

Admiral WINNEFELD. It is filled with a captain, sir.

Senator NUNN. Is there any problem with that captain's work, is he capable of performing his duty?

Admiral WINNEFELD. I just came from that job. However, I filled it as a captain.

Senator NUNN. Did you have any trouble?

Admiral WINNEFELD. As a captain?

Senator NUNN. Yes; while you were a captain.

Admiral WINNEFELD. No, sir, I didn't have trouble, but I think I could have done a better job perhaps if I had done it as a flag officer. I know my morale would have been a little higher.

Senator NUNN. If you went back now you would do a better job because you are an admiral?

Admiral WINNEFELD. Yes, sir, and I would be striking for the superintendent's job.

Senator NUNN. What about West Point, I understand there are four generals there. Is there any reason why we have four generals at West Point and it takes only one admiral at Annapolis, plus a captain who could have done better if he had been an admiral?

General HEIDEN. The superintendent at the Academy, the commandant of cadets, is a general officer, the dean of academic board at West Point is a general officer. The fourth space was added just recently to overcome some of the problems that showed up at West Point, which I am sure you are aware of, over the past couple of years, and the general officer position has only been up there a short time.

Senator NUNN. What you are saying is you need all the general officers you have there?

General HEIDEN. At the present time, yes, sir.

Senator NUNN. If a colonel or two were thrown in instead of a general do you think that would be a real problem?

General HEIDEN. The general officer position recently placed up there did take a position that was formerly held by a colonel. The reason for putting him up there was to overcome some of the problem areas that had developed in the administration and community activities which showed up in the rather extensive look that was taken at West Point after the problem we had with it.

Mr. WHITE. If I may make one other comment on that. One of the things we learned in doing this analysis is that with the fixed numbers of flag officers the services have, they do consciously move them around when they have problems. I think it is a manifestation of the fact that there are situations when you have a serious problem where you are better off keeping a flag or general officer on the problem. Since they are not getting any more flag officers, they take the ones they have and move them around.

Senator NUNN. Senator Bartlett?

Senator BARTLETT. Thank you, Mr. Chairman.

Could I ask about the last billet for general officer at West Point, what is there about the cheating at West Point that requires a general officer?

General HEIDEN. In particular, in the investigation of the problem that arose up there with the honor system, as you know, the Army undertook a rather thorough analysis of what was going on at West Point in a number of areas, curriculum, community activities, the leadership training that was being conducted for the cadets up there, and one of the areas that showed up as an area needing some additional careful management was in the administration of the athletic program, the community activities, the leadership training, and the general officer position was taken from elsewhere within the Army and moved to West Point to specifically manage the problem areas that had arisen.

At the same time, there are other actions underway as directed by the Secretary, in the curriculum, in the structure of the corps of cadets, and its management, as well as the tactical training that is given to the cadets.

Senator BARTLETT. However, weren't there basically some problems that had nothing to do with the rank of officers, necessarily?

General HEIDEN. Yes, sir.

Senator BARTLETT. That led to the cheating that took place and probably indirectly contributed to it? I guess I find it difficult to see why a general officer would be required.

General HEIDEN. I think there is some truth in what you say, sir. However, there was a total look taken at West Point in areas which can be influenced to improve the environment up there, to build and maintain the honor system. There were certain deficiencies which showed up which the Secretary and the Chief of Staff determined required rather firm management by a general officer and that is why the space was taken from elsewhere within the force and moved up there.

Senator BARTLETT. Thank you.

General UMSTEAD. If I may, could I make a couple of comments about the general officer study? I was personally very involved in that study effort and I think we tried to point out in the study report the extreme difficulty we encountered in trying to make useful comparisons between various functions and areas in the different services.

Beyond the problem of the different services establishing their own priorities, as Dr. White mentioned, you have simple things such

as a civilian substitution, high grade civilians in certain billets in one service that you don't have in another service. You have organizational differences within the services.

In addition to this you have the definitions themselves that are a problem. Look at the training and education area that you just referred to. In some services these positions may be counted as command billets, in other services they may be counted against the training and education functional area. So you have differences in comparisons there.

We found that gross numbers comparisons were very difficult to make and in the final analysis the most useful thing we could do was to look at individual job descriptions, position descriptions, the level of responsibility that an individual had, and validate those as opposed to trying to make interservice comparisons within functional areas.

Senator NUNN. Are you saying you really cannot get a valid analysis between services by comparing the number of general officers?

General UMSTEAD. It would take a great deal more time than we had available for this study, to accurately functionally categorize the different positions within the services so that we could make an accurate comparison.

At the same time, we have to weigh the effects of tradeoffs in high grade civilians in some positions in some services.

Senator NUNN. We have been told there is no way to compare the numbers of generals and admirals to the number of top executives in private business. Do you agree with that?

General UMSTEAD. I think the comparisons that we made, presented rather accurate order of magnitude comparisons. We were certainly not out of line with the civilian industry, and as a matter of fact, our average employee per general officer was significantly higher than most of the firms that were examined.

Senator NUNN. Would you say that again?

General UMSTEAD. The average number of employees per manager, in case of the military services, was significantly higher than what we found in the civilian industry.

Senator NUNN. One thing that is puzzling to me is if you take a corporation like A.T. & T. or General Motors and the average top executive stays in that position only 3 years, what kind of company would you expect to have?

General UMSTEAD. I don't think you can compare their management structure, sir, with the services. We have a closed personnel system where we are not afforded the opportunity of having individuals coming in by lateral entry. We bring our people up from the bottom through the structure and it is necessary to continue our turnover at a reasonable rate to allow progressions for those below.

Senator NUNN. Most people in industry are promoted from within, they have some collateral movement but not in the giant corporations. You look at the average length. The question is, How could a big company run its business if the average length of time its top executives spent were around 3 years in the top management executive positions?

My point is, General, that it seems to me you have got a computer running all of this. Your promotion system has overcome a degree of commonsense in what you want in terms of top management, and

the degree of stability and experience that top managers need. That is my observation.

I just don't see how you can run, for instance, a Trident submarine program or major shipbuilding program when your average people making decisions have been in those top positions only 3 years. You are getting more and more.

Your justification for the number of generals and admirals generally speaking, is because the world is getting more complex all the time. That is the thing I have heard over and over again. You have to have more generals and admirals now than you did per enlisted and per uniform man because weapons are more complex; decisions are more complex; high level contacts are more complex; and contacts with other nations' military's is more complex. All of that flows in one direction.

If I buy that argument, then you will turn around and show me with your statistics that your average length of time in grade as a general officer is much less than it has ever been, and it is declining every year. The two are totally inconsistent. Something is badly amiss.

Mr. WHITE. Mr. Chairman, we have been—and the Secretary has been very interested in this personally—increasing the amount of time in key jobs that general and flag officers spend in those jobs, and I think you will see in those statistics that we are improving.

Second, I think it is transitory in terms of the current statistics with respect to the general officer force.

Senator NUNN. When is it going to change, Mr. Secretary, and what are your projections for the next 5 years?

Mr. WHITE. I would have to go look in detail but I would anticipate over the next several years that we would begin to change and go in the other direction.

Senator NUNN. Is that part of the goals of this DOPMA proposal?

Mr. WHITE. No, sir.

Senator NUNN. Has anybody said that is the goal, has anyone ever looked at that?

Mr. WHITE. The services look at that all the time in great detail.

Senator NUNN. Let me ask the services therefore, what are the projections for the next 5 years in terms of average length of time that general officers are going to spend in their top positions. Have any of the services ever looked at that?

General DAVIS. General Davis, Air Force. In listening to all of this discussion, and Dr. White is dead on with the transitory phase, the fact is that flag selections are averaging between 24 and 25 years, that is years of service.

The objective is, of course, to promote a little sooner so that you have greater selectivity and can keep flag and general officers in grade longer than they now serve.

But our overall objective is to increase the length of time that a general officer is on board.

Senator NUNN. How will DOPMA accomplish that and what are your projections for the next 5 years in average length of time?

General DAVIS. As you know, obviously, Senator Nunn, DOPMA does not include the flag officers. It includes the commodore-admiral. But DOPMA just does not address that issue.

Senator NUNN. It has a foundation for flag officers. They don't come from E-1, they come from colonels and captains.

General DAVIS. They come from O-3's, that is right, and under the colonels, to O-6's, you have to have an adequate base on which to select. Going back to your earlier point, a man who spends 3 years as a top man in the corporation didn't arrive at that position with that as his only experience in that job. He has gained experience up through the system so that for example a general officer may be in a systems management position after having been in a systems program office for F-15. He brings, let's say, 15 years of management experience to that job. It is not just the 3 years he has served in that top job.

Senator NUNN. Well, that gets back to the argument then if he has all that much experience, maybe he could do the job as a colonel rather than as a general.

General DAVIS. The other point—

Senator NUNN. You are meeting yourself coming back. There is no logical consistency to the case being made for generals and admirals versus the experience they have in grade. I know a colonel has a lot of experience. I have been arguing that point for a long time. I think there are colonels that can do a general's job.

General DAVIS. And some colonels are doing general's jobs because we don't have enough generals to do the jobs.

Senator NUNN. If you don't have enough generals, why don't you keep some of them longer and not have them retire so quick? That is something you can do.

General DAVIS. Well, of course, that is an option with the individual, as long as he serves his mandatory 2 years in grade prior to retirement. And one looks at the situation and we are talking about—

Senator NUNN. It is obvious a lot of people want to get a star and retire. That is what is happening. You know it and I know it. They want to get a star and retire and the whole system of the military is working along that line.

What I am saying to you, General, is that your arguments are mutually inconsistent. If you have enough colonels with enough experience and all this experience then you don't need as many generals and admirals as you have got. On the other hand, if you don't have the experience in those ranks, then you need a lot more time as generals and admirals instead of a 3-year average.

One or the other of your arguments is wrong; I don't know which one. One of them is.

Mr. WHITE. I don't understand that.

Senator NUNN. I don't either.

Mr. WHITE. In industry, the people they promote that would be equivalent to colonels are vice presidents, and they have a lot of vice presidents. If you provide the individual with a reward for performance and with significantly more responsibility and leverage in the system in which he operates and he is any good he is going to do a better job.

Senator NUNN. Everybody has said we need to have more length in service as admirals and generals and yet, no one has told me any service, that is projecting such an increase over the next 3, or 5, or 10 years. Maybe there is one, but all you are saying is this is a transitory kind of thing that has come about because of the number of reductions and so forth. I am asking if anyone has done a study about what the next 5 years are going to bring forth in terms of the average time that flag officers spend as flag officers. Has anybody in the military, in any service, done a study on that?

General DAVIS. Yes; Senator, I have such a study that projects length of service, at least, on an objective basis, where we would like it to be. There are many, many variables that go into such a projection but our long-term objective is, of course, to increase the selectivity.

In other words, when we promote to three and four star we would like to have three or even four generals in the competition for that position, which portends longer service. But I have a study.

Senator NUNN. What does it show? Does it show the next 5 years you are going to be going up in terms of the length of years and experience?

General DAVIS. Yes sir, it does.

Senator NUNN. How about the Navy? Has Navy done a study?

Admiral WINNEFELD. We haven't got a study like that. What we are approaching is to try to get greater stability in our flag officer assignments and we feel that will drive to a higher number. Now, just what those numbers are, I would have to provide those.

Senator NUNN. How about the Army?

General HEIDEN. No sir, we have a current ongoing study. As you recognize, the tenure of general officers will be influenced, one, by the mandatory retirement provisions which currently are in title 10.

Second, by the provisions in DOPMA, if it is enacted, and if not, then by the tenure provisions currently contained in title 10.

We are currently in the position of trying to mesh these all together because we find that the promotion points for our O-6's are beginning to stretch out and interfere with the desired points for promotion of the O-7 brigadier general. That study is underway; it is not completed at this time.

Senator NUNN. General Davis, could you furnish your study to us, at least a summary of it, on this particular point?

General DAVIS. I will supply that for the record.

[The information follows:]

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS, U.S. AIR FORCE,
Washington, D.C., August 8, 1978.

Senator SAM NUNN,
Chairman, Subcommittee on Manpower and Personnel,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the DOPMA hearing earlier this year we discussed the flag experience of general officers today versus those on active duty in 1968. During the course of the hearing, I indicated that we had looked at the issue and would provide the subcommittee a summary of our analysis.

Attached is a copy of the paper designed to meet that commitment. It addresses flag experience and describes the impact that the loss of WWII officers has had on our experience levels. Additionally, it explains the concepts of selectivity, equity and experience in managing the general officer force and elaborates on Dr. White's comments concerning the dynamics of flow into and through a fixed number of general officer authorizations. Out-year projections indicate that experience levels will continue to rise as they have for the past two years as a better balance of youth and experience in the general officer force is achieved.

We appreciate this opportunity to provide you additional information concerning the system employed in managing the general officer force.

Sincerely,

B. L. DAVIS,
Lieutenant General, USAF,
Deputy Chief of Staff, Manpower and Personnel.

AIR FORCE GENERAL OFFICER MANAGEMENT

This paper describes selected trends and characteristics associated with Air Force's general officer force and the system employed to manage that force. It was prepared at the request of the Subcommittee on Manpower and Personnel of the Committee on Armed Forces, United States Senate.

INTRODUCTION

One of the key measures in assessing the strength of the general officer management system is the range of alternatives it provides in the selection of general officers who will lead the Air Force. We term this range of choice "selectivity" and define it as the ratio of eligible officers to general officer vacancies. The objective with respect to "selectivity" is to insure the availability of an adequate number of eligible candidates from which qualified officers can be selected for each general officer grade.

The Air Force management system also seeks to optimize the length of useful, productive service it obtains from each officer selected for promotion to brigadier general. In addition to encouraging general officers to stay in the force to the maximum statutory term that they receive from permanent promotion, the Air Force also works to develop promising young officers. The selection of proven and experienced younger colonels in the appropriate proportion from year to year provides the input necessary to balance the mix of youth and experience in the general officer force. This mix of experience increases the service time of Air Force flag officers, promotes stability and helps assure consistent levels of experience within the general officer force. It also improves selectivity, since younger officers tend to serve longer as flag officers and thus are in the "eligible-for-promotion" category longer.

Finally, the Air Force attempts to minimize disruptive policy variations from year to year and assure equitable treatment for officer year groups entering the general officer promotion eligibility stream. The selection of inordinately large numbers in any one year is avoided since this results in clusters within the general officer force, promotes instability and could mean a lack of promotion opportunity for officers in later years.

These objectives shape the general officer management system. Current trends and projected tendencies are continually evaluated against these objectives.

TENURE OF THE GENERAL OFFICER FORCE

Members of the Subcommittee have cited the fact that Air Force general officers today have less flag experience than they did in 1968. Table 1 shows the impact of the rapid loss of flag experience in the late 1960's and early 1970's. The figures cited are characteristic of a general officer force consisting primarily of WWII veterans, many of whom were promoted to the grade of brigadier general with as little as 16 years of service.

TABLE 1.—AVERAGE YEARS SERVED AS FLAG OFFICERS OF RETIRING AIR FORCE GENERAL OFFICERS

	Calendar year—									Through July 1, 1978
	1960	1968	1970	1972	1973	1974	1975	1976	1977	
General.....	18.25	16.1	19.3	16.8	17.6	13.6	12.2	None	11.9	11.7
Lieutenant general.....	14.65	14.8	13.9	12.7	10.9	10.9	9.3	8.6	8.6	7.8
Major general.....	8.4	8.1	6.9	9.3	7.4	7.3	6.2	5.3	6.1	5.8
Brigadier general.....	6.8	5.7	3.6	3.9	3.9	3.9	3.3	2.8	3.9	3.9
Number retired.....	40	53	88	79	92	78	94	35	54	28

The average four-star general retired during the years 1968 through 1973 had served almost half his career as a flag officer. During the period 1974 through 1978 there was a marked decline in this average as officers promoted to brigadier general much later in their careers began to exit. Although this same trend can be seen for those retiring as lieutenant and major generals, the flag experience of those retiring as brigadier generals has not changed for several years. On the average, they have served between three and four years after having been considered for promotion to major general at least once.

The data in Table 2 show the average age, average years of service, and average years served as flag officers of Air Force generals who retired during each of the years cited.

TABLE 2.—SELECTED SERVICE DATA ON AIR FORCE GENERAL OFFICERS AT RETIREMENT

Year of loss	Number retired	Average age	Average years of service	Average years as flag officer
1960	40	53.7	29.6	8.9
1968	53	53.0	29.8	7.9
1970	88	52.4	30.9	6.2
1972	79	53.8	31.8	7.9
1973	92	52.8	31.8	7.2
1974	78	53.5	31.2	6.6
1975	94	53.6	31.6	5.9
1976	35	52.4	30.5	4.1
1977	54	52.8	30.4	6.2
1978 (July 1).....	28	54.1	32.7	6.5

Air Force general officers retired in 1968 had served an average of almost eight years as flag officers; by 1976, this average had dropped to 4.1 years. As the data indicate, this trend had been reversed over the last two years. The increase in flag experience in 1977 and 1978 can be attributed directly to Air Force efforts to establish a better youth/experience mix in its general officer force, primarily through the promotion of younger colonels beginning in the early 1970's.

It should be noted that the average age and average total years of service of retiring flag officers has remained relatively constant over the last 18 years. General officers retired in recent years are exiting the Air Force at about the same point they did in 1960.

In summary, the decline in flag experience after 1968 was due primarily to the fact that promotion to brigadier general in the late 1960's occurred much later in an officer's career. WWII veterans, promoted to brigadier general early in their careers, served for exceptionally long periods as flag officers. With the number of general officer positions fixed, officers selected to fill vacancies created by these retiring WWII officers tended to be more senior. Since this group was senior at promotion to flag rank, they served as general officers fewer years prior to retirement, causing the average years of flag experience to decline.

Table 3 highlights the same trend toward decreased tenure as a general by looking at the active duty general officer force. By 1976 the average general officer had been on active duty as a general for only 3.2 years.

TABLE 3.—AVERAGE YEARS AS FLAG OFFICERS OF ACTIVE DUTY AIR FORCE GENERAL OFFICERS

Date	General	Lieutenant general	Major general	Brigadier general	Average/all grades
July 1, 1968	15.6	11.4	6.8	2.2	5.2
July 1, 1969	15.6	11.3	6.4	2.1	5.0
July 1, 1970	14.3	10.1	6.1	1.8	4.6
July 1, 1971	14.4	10.2	6.6	1.9	4.8
July 1, 1972	13.2	10.3	6.0	1.8	4.6
July 1, 1973	13.0	9.0	4.9	1.5	3.9
July 1, 1974	11.6	8.0	4.7	1.5	3.7
July 1, 1975	11.3	7.0	4.4	1.5	3.5
July 1, 1976	10.6	6.8	4.2	1.2	3.2
Oct. 1, 1977	10.8	6.9	4.4	1.9	3.7
July 1, 1978	10.9	7.1	4.7	1.5	3.8

Updating these figures for 1977 and 1978, we can see that this trend has been reversed. Those serving in 1977 had served an average of 3.7 years as flag officers. By July 1978, average experience of active duty general officers had increased to 3.8 years. This upward trend is expected to continue.

FACTORS INFLUENCING TENURE

The basic controls on general officer tenure are established by Title 10, United States Code. Title 10, United States Code establishes: The rules governing retirement for age and years of service; eligibility for permanent promotion, and tenure in permanent grade.

Permanent promotion boards, operating under statutory procedures, award increased tenure to selected officers. The awarding of tenure impacts on the general officer loss rate directly by extending an officer's retirement rules, and indirectly by increasing the voluntary loss rate of nonselected officers.

The Air Force conducted a study of the relationship between the decisions made by general officers who voluntarily retire and variables such as years of service, years remaining to mandatory retirement, age, years in grade, etc. A predictable but significant conclusion of this study, based on a statistical fit of past retirement rates, was that the closer a general officer is to mandatory retirement the more likely he is to retire voluntarily.

We have used years-to-go to mandatory retirement and a temporary/permanent grade matrix as the index for collecting historical loss rates. We use this cumulative average loss rate, adjusted for apparent trends such as changes in retirement pay, e.g., the anticipated pay inversion anomaly in 1975, to estimate early losses due to voluntary retirements, deaths and disabilities in each of the next five years. The loss rates, when combined with known parameters such as authorized year-end strengths, are used to determine the number of annual promotions. In turn, we analyze by years-of-service the impact of the actions of permanent promotion boards on the out-year distribution of losses. These projections are then adjusted to provide a stable, relatively even flow into and through the general officer force.

Table 4 shows the results of our study on loss rates by temporary/permanent grade, and years to go to mandatory retirement.

TABLE 4.—TEMPORARY/PERMANENT GRADE AVERAGE LOSS RATES

	Brigadier General/ Colonel	Brigadier General/ Brigadier General	Major General/ Colonel	Major General/ Brigadier General	Major General/ Major General	Lieutenant General/ Brigadier General	Lieutenant General/ Major General	General/ Major General
Years to go to mandatory retirement:								
0-----	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
1-----	.35	.30	-----	.50	.35	.30	.30	.25
2-----	.20	.15	-----	.30	.35	.20	.30	.15
3-----	.15	.15	-----	.10	.35	.15	.15	-----
4-----	.05	.15	-----	.05	.15	.10	.10	-----
GE5-----	.05	.05	-----	-----	.15	-----	-----	-----

INPUT TO THE GENERAL OFFICER FORCE

As indicated in Table 5, colonels selected for promotion to brigadier general in the mid-1950's averaged less than 21 years of service; this figure increased by the late 1960's to 26 years. The promotion of older officers through 1969 was due primarily to the large numbers of active duty generals promoted to flag officer rank early in their careers. While these WWII generals remained on active duty, colonels eligible for promotion tended to become more senior.

TABLE 5.—SELECTED SERVICE DATA ON TEMPORARY BRIGADIER GENERAL SELECTEES

	Line off promotions	Average years of service	Average age
1956-----	30	20.7	44.8
1960-----	40	23.3	45.6
1964-----	43	24.7	45.9
1968-----	57	25.3	46.3
1969-----	61	26.0	47.1
1970-----	68	24.2	46.4
1971-----	71	24.2	46.3
1972-----	69	24.0	46.2
1973-----	65	23.6	45.7
1974-----	61	22.9	45.2
1975-----	38	23.6	45.9
1976-----	51	23.4	46.4
1977-----	41	24.1	46.7
1978-----	48	24.0	46.6

Faced with the retirement of some 107 of 202 major generals, lieutenant generals, and generals between 1970-1975, the Air Force became concerned with how to avoid experience and stability problems engendered by the early promotion, clustering and compressed loss of WWII general officers.

As a result, the Air Force evaluated a number of alternative brigadier general selection policies and guidelines and their effect on selectivity, average years of service prior to retirement, average years in grade prior to promotion, etc.

This evaluation resulted in abandonment of a "lock step" policy which made permanent promotion a prerequisite for temporary promotion. It also resulted in the concept of a balanced mix of youth and experience in the general officer force.

We believe we must continue to emphasize selectivity and at the same time moderately extend the average years served before retirement. It will not happen quickly, however. Past selections by temporary and permanent promotion boards have given us today's general officer force just as WWII selection decisions produced the model against which our force is now being compared.

Table 6 isolates brigadier general selectees for each year from 1977 through 1981 and projects each as a cohort group into the future.

TABLE 6.—PROJECTED SERVICE DATA ON TEMPORARY BRIGADIER GENERAL SELECTEES

Year of selection	TBG-TMG selectivity	Average years to promotion	Average years to retirement
1977.....	2.1	2.7	6.7
1978.....	2.7	2.9	7.1
1979.....	2.9	3.0	7.4
1980.....	3.0	3.2	7.6
1981.....	3.0	3.2	7.6

Some in each group will be promoted and some will retire each year until all have exited. Our estimate for 1977 selectees, for example, is that they will serve on the average of 6.7 years as flag officers. For the 1978 selectees we estimate 7.1 years. The 1979, 1980, and 1981 estimates are based upon the assumption that these brigadier general selection boards will find adequate quality in a slightly younger mix, a few more younger colonels with the necessary experience and credentials for advancement, more closely approximating 1973 selections.

Without returning to WWII early selection practices or the late 1960's practice of selecting large numbers of older colonels, we see the possibility of 7.4 years service on the average for 1979 selectees and 7.6 for 1980 and 1981 selectees. These figures compare favorably with the average years of service as a flag for those general officers who retired in 1968 (7.9 years), which included officers selected to brigadier general in their sixteenth year of service. Selectivity for promotion to major general as indicated should increase for each cohort group and stabilize at a ratio of approximately 3 to 1.

SUMMARY

In summary, the system developed involves promoting officers into and through the system each year looking four to five years into the future to avoid feast and famine promotion situations and spreading the input into the general officer force over an appropriate years-of-service mix (youth/experience). We do this to insure that we don't bring too many in too fast with too little experience, or too many too late with too much service and too old to be future candidates for promotion to 2-, 3-, and 4-stars. By looking ahead, the Air Force promotes roughly the same number of officers into the general officer force each year, maintains reasonable time in grade for promotion to 2-, 3-, and 4-stars to insure reasonable selectivity. The results have been tested and found good—a competitive quality general officer force.

General DAVIS. And one of your other points, cutting down the number of general and flag officers, and letting colonels do the job, goes to Dr. White's point and that is the incentive to make these people vice presidents. If you take the incentives away there is an indication that your brighter young colonels, if you cut down the selection opportunities, are going to leave you.

Senator NUNN. Well, that is true. Of course colonels are making, counting inflation, much more than generals did in 1964.

General DAVIS. If one looks at the whole system, and the congressional staffers added, you will find the same inflation tendency there. That is, a staffer makes what a Congressman did in the same period of time.

Senator NUNN. It hasn't gone up nearly as fast.

Senator BARTLETT. Could I ask what the purpose of your studies are, studying the general grades and flag officer grade?

General DAVIS. Stability and what our standards ought to be in terms of age objectives, and selectivity.

Senator BARTLETT. What did your study show? Was the purpose of your study to find out what changes it would take to bring about longer tenure in the higher ranks?

General DAVIS. That was one. That certainly is one variable that was looked at.

Senator BARTLETT. What did you find out?

General DAVIS. To avoid situations where you were turning over, let's say, half of your four-star force in 1 year, to avoid the situation that Dr. White talked to earlier, to give you a more even flow.

Senator BARTLETT. What did you find out?

General DAVIS. The key variables included the need to select earlier to flag officers, to keep people in, so that you would have selectivity. In other words, if you promote late, let's say, 27, 28, 29 years, and with the current laws, 35 years mandatory retirement or 30 years, depending on one's permanent grade, you get turnover too fast.

In other words, you don't have long enough to look at them for the top jobs. You need to select an appropriate number of colonels earlier so they can serve longer as general officers and you have longer to look at them, before further advancements, Senator.

Senator BARTLETT. But in promoting them earlier isn't it also true that—

General DAVIS. Not promoting all of them earlier, promoting enough of them earlier so you have got a good mix of youth and experience in the force, it gives you a good objective look at the force.

Senator BARTLETT. At the present time there is a requirement of serving 2 years as a general officer?

General DAVIS. That is right.

Senator BARTLETT. Do you think that such a move as just lengthening that to 3 years and thereby increasing it by 50 percent?

General DAVIS. I think that would require a great deal of study, Senator, because one doesn't want to trap one's service into keeping someone on longer simply to satisfy a longevity requirement. There are a lot of variables that go into such a study and I would just say that, off the top of my head, I would hate to give you an answer to that question without looking at it further.

Senator BARTLETT. You had a study of it, I assumed you had looked at it very thoroughly, and therefore, would have thought what various ways you could achieve the goal, and one of the obvious ways is to increase the requirement, and I would assume that you had given that careful thought.

General DAVIS. One of the obvious ways also is to promote earlier.

Senator BARTLETT. Not if you are trying to lengthen you still promote, but you want to lengthen the time. If you do want to lengthen the time that a person is a general officer I think that you would think of some kind of requirement. But I certainly agree with the chairman,

that in the average corporation, the vice president and the president, vice presidents, have tenure much longer than they do in the military, and obviously it varies with individuals involved, varies with their capabilities, varies with their health, a lot of things, but nonetheless I think there are obvious incentives for them to stay on. There apparently are not obvious incentives in the military—at least ones being taken by enough people at the present time. Unless somebody else has an answer to the question, I appreciate——

General AITKEN. General Aitken, Marine Corps.

I think that we are trying to use statistics here to tell pictures that aren't there, if I may say so. The statistics don't tell you as General Davis said, what the experience level is of the individual filling particular billets. For example, I have been in my present job about 2 months and I am leaving next month. I am a recent selectee for brigadier general, recently promoted to general, and I had 3 years experience in this particular field before I got appointed to the job. My successor coming in has lengthier experience in the manpower business. The fact that he may spend 2 or 3 years in that job before he reaches the mandatory retirement age, and mandatory retirement service, does not in any way reflect the experience he brings to the job.

My immediate superior, General Nichols, is retiring this week. His successor brings to that job lengthier experience in the manpower department. He used to hold the job I now hold. So when you look at how long a general officer or flag officer has been in the particular billet, it doesn't really reflect the experience he carries into the billet. I think we have to look at that.

I looked at some statistics on the eighth largest insurance company in the United States last night. They have 2,000 people plus 3,000 agents in the field. That is a force of about 5,000 people. They have more vice presidents than the Marine Corps has general officers, and we are managing a force of 190,000 people. So I don't think you can make comparisons between military service or civilian industry. The purposes are different, the organization is different, the manner in which we function is different, the objectives are different, the controls are different, they are not managed by congressional controls, they are not managed by law to the extent that we are in grade. I think we are really looking at things that can't be looked at in a comparative sense.

Senator NUNN. Also you can't compare Marine generals to the number of generals and admirals in the other services very accurately can you? That is the least likely to be a prototype because you have fewer generals in the Marine Corps than do the other services.

General AITKEN. That is right, if you take our 66 generals and several of them retired unexpectedly early, the average time in grade is going to be dramatically——

Senator NUNN. Did you compare the Air Force to that insurance company?

General AITKEN. No; I would never do that.

Senator NUNN. That would be an interesting comparison.

General DAVIS. How many vice presidents did they have?

General AITKEN. They were in excess of our 66 and they had 5,000 people they were managing.

DOPMA INTERFACE WITH PCMC PROPOSAL

Senator NUNN. Mr. White, on page 20 of your statement you refer to the President's Commission on Military Compensation, and you say, and I quote:

Our preliminary review of the Commission's proposal has revealed no basic conflict with the principles of the DOPMA. Early passage of DOPMA by Congress will provide a firm basis of intent on which the complementary compensation proposals can be considered.

However, the Commission did specifically address the age and experience distribution of the force. The Commission expects its plan would provide an officer force having a larger percentage of members with 10 years of service or less, a smaller percentage with 11 to 20 years, and larger proportion with 21 years or more.

Now, we are dealing with a bill that attempts to set the desired force distribution. Do you agree that the force distribution characterized by the Commission would be desirable?

Mr. WHITE. No; I do not.

Senator NUNN. You disagree with the Commission on that?

Mr. WHITE. I don't know yet, we are still looking at that, Mr. Chairman.

Senator NUNN. Well——

Mr. WHITE. The issue is not only what is the desired force structure but also what is the capability to manage and shape the force structure and whether or not changes in the compensation system provide that capability.

Senator NUNN. Are we then premature in considering this bill if you do not know whether you agree with the Commission on that very important point that overlaps between the two bills?

Mr. WHITE. No; I don't think so. What this bill does is provide us a management framework in which to manage our officer force. The actual structure results from the compensation system interacting with the management framework. I think while they obviously have to be complementary they are not the same thing and I don't think we can wait for one, wait to try to do them both at once. One of them is complex enough without trying to do them both at the same time.

Senator NUNN. I don't disagree with you on that. The very important point they made on distribution of the services and the force structure is the key to this bill. That is what we are dealing with here.

Now, if that is not decided yet, whether that recommendation is consistent with this bill and with your opinion as to which way we ought to be going, then does it stand to reason we ought to wait until we get your opinion on that, at least, even if we are not going to deal with both bills at one time?

Mr. WHITE. No; I don't think so. Obviously we are satisfied as of now that the structure that we have proposed to the Congress in conjunction with DOPMA is appropriate and I think that unless we are going to persuade ourselves or be persuaded otherwise we will continue to pursue that.

At the same time, we have an open mind in terms of the Commission's suggestion and the outcome of those alternatives.

Senator NUNN. Would you agree that the desired officer grade distribution is an important step that should be decided first and then followed by the changes needed in the compensations system to maintain the desired grade structure?

Mr. WHITE. Yes; I think you need to understand at any particular time, as we do now, what our grade structure ought to be. With respect to the compensation system, you should have one that will get you that grade structure but with sufficient flexibility to get you a subsequent grade structure if your requirements change.

UP OR OUT SYSTEM

Senator NUNN. All right, turning to another point, the up or out policy.

Various statements have been made about the military up or out system. My own view is we need an up or out system. The issue is not whether this policy should be abandoned, the issue is not whether we ought to have an up or out policy, the question to me is whether the one we have and whether the one proposed is too rigid.

Do you believe that the current system—I am not talking about the proposed DOPMA legislation but the current system—do you believe that the up or out policy is too rigid, not rigid enough, or is about right?

Mr. WHITE. It depends on various situations. I think the DOPMA proposal is better, particularly, for instance, the treatment of Reserves. The management flexibility introduced in DOPMA, in terms of continuation boards and so on, I think adds to our flexibility. I think that is desirable.

Senator NUNN. Do you think this DOPMA system moves toward less rigidity in the up or out system?

Mr. WHITE. Yes, sir.

Senator NUNN. Or do you think it moves toward more rigidity?

Mr. WHITE. I think in general DOPMA moves toward less rigidity and gives us the ability to look at specific situations and determine whether the up or out policy is appropriate at that time. In terms of management flexibility I think it improves our situation.

At the same time DOPMA continues, I think appropriately so, the fundamental principle of up or out, as you indicated. I think this is very important.

Senator NUNN. Do you believe, in your opinion, this DOPMA proposal as compared to the existing practice moves from a more rigid up or out system to a less rigid, is that what you are saying?

Mr. WHITE. Yes, sir.

Senator NUNN. How could you reconcile that with the required involuntary separation of Reserve officers with 11 years of service, the elimination of current authority to retain captains deemed qualified to serve in this grade and skill, including doctors, the requirement of involuntary retirement of lieutenant colonels at 26 years instead of 28 years, and the provision of new authority to involuntarily retire O-5's and O-6's prior to mandatory retirement?

It seems to me all of those are moving toward a more rigid up or out system.

Mr. WHITE. Well, sir, I guess I disagree, particularly regarding the last point. I think DOPMA provides us with the opportunity to examine those senior officers in terms of whether or not they ought to serve that long. That increases our flexibility, it doesn't decrease it.

Senator NUNN. I am not talking about your flexibility, I am talking about the up or out system—two different things. DOD can have

more flexibility and at the same time the up or out system can get more rigid. You are speaking as if they are synonymous, and they are not.

Mr. WHITE. I don't think they are synonymous, but I think they are complementary. If the system is more rigid, then it seems to me there is less flexibility. In this case, I think the system is less rigid and there is more flexibility.

Senator NUNN. Well, you are assuming DOD policy. If DOD has more flexibility they could also make the system more rigid. If DOD has more flexibility they could also make the system less rigid, it depends on the way DOD intends to go.

Mr. WHITE. That is correct; 10 years from now we could decide that flexibility was used. I don't know how to predict that.

Senator NUNN. Would it be accurate to say this DOPMA legislation gives DOD more flexibility to make the up or out system more rigid?

Mr. WHITE. Yes, sir.

Senator NUNN. All right, I think we agree then.

Mr. WHITE. And the converse is true, it gives DOD more flexibility to make it less rigid.

Senator NUNN. Which way do you intend to go?

Mr. WHITE. I think it depends on the situation in the future. It depends on the force requirements. The key to DOPMA is to develop a system that is more consistent with our force requirements now and in the future. I don't think the current laws do that. They are predicated on assumptions which haven't turned out to be the case.

Senator NUNN. The House Appropriations Committee states in its report on this bill, and I quote:

It is our hope that when this bill reaches the Senate that appropriate changes can be made to modify the up or out provisions in a manner which results in an actual savings and efficiencies in the use of military manpower during the 1980s.

Without getting your personal views or DOD's views, tell us from an expert point of view, what changes could we make that would carry out this House language?

Mr. WHITE. Well, first of all, when you mention the cost difference, that is obviously a very complicated business. I would assume you could create a system whereby you could allow passed over people to stay longer, but still terminate them short of providing them with retirement. This would reduce your accessions and reduce your retirement costs and save you money. I expect you could do that. So if you relieved, in certain instances your up or out policies, you could save money.

In other instances, if you carry those people to retirement it would probably cost you more money. It depends on the particular situation.

Senator NUNN. The House Appropriations Committee has included a 1-year moratorium on forced officer separations under up or out except for those provided by law. What effect will that policy have on the officer structure?

Mr. WHITE. I am sorry, Mr. Chairman, I don't know, I haven't had a chance to review that yet. I would have to supply that for the record, if I may.

Senator NUNN. If you would, we would appreciate it.

[The information follows:]

PROPOSED MORATORIUM ON INVOLUNTARY SEPARATIONS

The proposed moratorium on involuntary separations due to promotion failure, except for those mandated by law, is a major departure from current and proposed DOD officer management philosophy and practice. It is also inconsistent with past Congressional sanctions that have recognized the "up-or-out" mechanism as a basic element of officer force management, such as in the annual authorization and appropriation processes. Furthermore, the alternative to DOPMA proposed by the Subcommittee which we examined, essentially preserves the "up-or-out" management concept.

In addition to these basic philosophical inconsistencies, the moratorium would force the Services to treat Reserve and Regular officers inequitably. It would require the continuation of Reserve officers who would normally be involuntarily separated under current policy while Regular officers would continue to be involuntarily separated under current law. The Reserve officers who would be retained would be of similar competitive quality as the Regular officers who would be separated. This inequity poses several questions.

Why is one particular group singled out for different treatment?

Will those who follow get similar treatment?

Finally, we feel it would be extremely disruptive to single out and halt a particular management program pending formulation of possible future revisions to it. Any proposed changes would require legislation and to speculate on the outcome of the process by placing a moratorium on policy affecting one segment of the officer population is not only unfair to those who would still be subject to involuntary separation by law, but can be a hardship on that segment of the population the moratorium presumes to protect.

Considering the foregoing the Department opposes the proposed action.

Senator NUNN. Senator Bartlett?

Senator BARTLETT. Thank you, Mr. Chairman.

SELECTIVE CONTINUATION

Secretary White, in the last Congress this subcommittee reached several conclusions about DOPMA and asked the Defense Department to comment on them. What is the Defense Department's view of the following options with respect to DOPMA:

One, selective continuation of O-3's for 20 years?

Mr. WHITE. We are opposed to that, Senator Bartlett.

Senator BARTLETT. Could you say why?

Mr. WHITE. Yes, sir. I think it is absolutely critical that we have a system whereby we provide a competitive environment for people and select and reward the people who do well. If you go to a system in the long term which allows you to take, in this case, the bottom 20 percent and continue them forward after they have had all their opportunities for promotion exhausted and, in fact, after the 14th year they are not going to receive any more pay increases, I think it has a deadening effect on the competitiveness and vibrancy of the system.

Senator BARTLETT. The second question: The selective continuation of O-4's to 24 years?

Mr. WHITE. I think the selective continuation of O-4's to 20 years of service is totally adequate. I don't think we need, again in a situation in which we have officers who are no longer competitive, that we need to retain those officers for that length of time.

Senator BARTLETT. No. 3, is more than two opportunities for selection for promotion?

Mr. WHITE. I don't see any need, sir, to allow more than two opportunities. I think the promotion system is well structured, people get a fair opportunity, they compete against their peers, and I think twice is enough.

Senator BARTLETT. No. 4, continuation of Reserve Officers after 11 years?

Mr. WHITE. Well, sir, that gets back to the 11-year question. It gets back to the question of how we treat Reserve officers. We are in a situation today where we have a large number of Reserve officers on active duty. That was not the situation, in my reading of the record, that was intended by the law. What we want to do is provide for Reserve officers to know what their situation is, so they are treated exactly the same as their regular contemporaries. That means giving them the opportunity to integrate before the 11th year. Most of them will do that.

The number of people in our analyses who leave at the 11th year, Reserve officers who would not be integrated, is really very small.

INITIAL APPOINTMENT

Senator BARTLETT. And, fifth, rewarding Regular status to military academy graduates only after several years, perhaps 5, upon qualification of competition, but not on graduation.

Mr. WHITE. Yes, sir, Senator, I think it is very important in terms of our officer selection system to provide a fundamental opportunity for young men and women to select, principally through the academies although there are other avenues, to select the military as a career. I think part of our obligation, in terms of assuring them that they are members of the Regular Force, is to provide them Regular commissions. I think that ought to be continued.

Senator BARTLETT. Thank you, Mr. Secretary.

RETENTION OF CHAPLAINS

Senator NUNN. Mr. White, on the subject of chaplains, there is a good bit of interest in this subject, and we will have several statements entered by chaplains but I want to ask you some questions about it.

Are you well aware of the letter sent to President Carter in May by Senators Schweiker and Heinz and the entire Pennsylvania congressional delegation about the shortage of chaplains and the mechanism of the up-or-out policy on chaplains?

[The letter and response follows]:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 18, 1978.

Hon. President JIMMY CARTER,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Members of the Pennsylvania Delegation have been alerted to a problem in the Armed Forces Chaplain Corps which we would like to bring to your attention. With the support of the National Religious Organization, the services have been instructed to maintain a chaplain corps composed of a proportionately represented clergy. However, certain faiths are currently underrepresented.

The Armed Forces have not addressed themselves to the critical shortages in proportional representation, even though the administrative means to do so exists.

The up or out system, where an officer may be involuntarily separated from the services if he is not selected for promotion, has accelerated the problem. Clergymen representing critically underrepresented faiths are being separated from the services.

The need to retain certain corps within the services has led to a moratorium of the up or out system. The medical corps is an example. Yet chaplains do not have the same exemption from the up or out system.

We respectfully urge you to consider this problem. The House has passed the DOPMA Act recently, and during the Senate mark up of this legislation a clarification of Armed Forces policy can be requested.

We are very interested in what the Administration is planning to do to alleviate this serious problem.

Very sincerely yours,

JOSEPH S. AMMERMAN.
RICHARD S. SCHWEIKER.
LAWRENCE COUGHLIN.
ROBERT W. EDGAR.
ALLEN E. ERTEL.
MARC L. MARKS.
AUSTIN J. MURPHY.
ROBERT N. C. NIX.
DOUG WALGREN.
GUS YATRON.
H. JOHN HEINZ.
DANIEL J. FLOOD.
JOHN H. DENT.
JOSHUA EILBERG.
RAYMOND F. LEDERER.
WILLIAM S. MOORHEAD.
JOHN P. MURTHA.
RICHARD T. SCHULZE.
ROBERT S. WALKER.
JOSEPH M. GAYDOS.

ASSISTANT SECRETARY OF DEFENSE,
MANPOWER RESERVE AFFAIRS AND LOGISTICS,
Washington, D.C., June 9, 1978.

Hon. RICHARD S. SCHWEIKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHWEIKER: On behalf of President Carter, I am replying to your letter of May 18, 1978 regarding chaplains in the Armed Forces.

You are correct in your observation that some denominations are currently underrepresented within the chaplaincy. However, the shortages are not due to promotion policy but result from the nationwide shortages of clergypersons in some denominations and the inability of other denominations to provide chaplaincy to the military services. The military services are working with the various religious communities and have recruiting efforts underway to alleviate their shortages. They also have developed religious coverage procedures to ensure that the spiritual needs of their members are met.

In spite of these shortages, we believe that retention of all chaplains who have not been selected for promotion would have adverse effects on the chaplaincy over the long run. For example, chaplain leadership would steadily age causing the input of new chaplains to be reduced, and grade imbalances to occur. As a result, the chaplaincy would not possess the characteristics needed to serve the military services, the input of new ideas and innovative techniques would be limited, and the promotion opportunity of junior chaplains would be reduced. The net result would be lower morale and a chaplaincy less able to serve in time of war and peace.

This "up or out" policy has been in effect since the passage of the Officer Personnel Act of 1947. It is significant that nonselection for promotion means that in the Board's judgment other chaplains, with whom the chaplain competed, demonstrated greater capability to perform the duties and assume responsibilities of the next higher grade.

Time has demonstrated that making selectivity rather than seniority the criterion for promotion is just and maintains a young and vigorous officer corps. Applying this criterion to chaplains serves the needs of the Services and the chaplaincy.

Thank you for your interest and concern.

Sincerely,

ROBERT R. PIRIE, JR.

Mr. WHITE. I am aware. I have seen the letter some time ago, yes, sir. I don't remember it in detail.

Senator NUNN. Well, the letter asks for clarification of policies to be presented at a hearing. Would you be able to clarify the policy toward chaplains?

Mr. WHITE. We are in the process, Mr. Chairman, in my office, of reviewing that policy. I am afraid it would be premature to do so at this time. We do have that issue under review.

Senator NUNN. Could that review result in a change in your proposals on DOPMA regarding chaplains?

Mr. WHITE. I don't know, Mr. Chairman, I personally have not been intimately involved in the review. My office is reviewing the issue. I am sorry, I can't be very responsive on that subject.

Senator NUNN. What is the approximate time element you forecast completing that review?

General UMSTEAD. We should complete that within the next several weeks, sir.

I might add that the statistics presented regarding the role of the up-or-out system in contributing to the chaplain shortage were extremely misleading. The data that we have shows that the up-or-out system contributed very little to the chaplain shortage problem. Certainly we have shortages in chaplains, different denominations, but looking back at the data over the last 7 or 8 years we have lost very few chaplains because of up-or-out; particularly chaplains who we felt were competent to remain on active duty.

Senator NUNN. You are throwing competent in there. Our statistics show there have been several hundred chaplains let go under the up-or-out policy. You are saying those chaplains' competency entered into it, it was not just the up-or-out policy?

General UMSTEAD. There is a matter of denominations involved that is the key to this issue. I believe the figures will show that in the areas where we are short of chaplains the up-or-out losses indeed were very small.

Senator NUNN. That conflicts with all the information we have gotten. We would like you to get together with staff on that point and let's compare figures.

General UMSTEAD. Yes, sir.

[The information follows:]

*Army chaplains separated on the basis of two times
nonselected for promotion*

<i>Period:</i>	<i>Number</i>
July 1, 1970-June 30, 1971-----	1
July 1, 1971-June 30, 1972-----	0
July 1, 1972-June 30, 1973-----	0
July 1, 1973-June 30, 1974-----	8
July 1, 1974-June 30, 1975-----	15
July 1, 1975-Sept. 30, 1976-----	43
Oct. 1, 1976-Sept. 30, 1977-----	13
Oct. 1, 1977-Apr. 1, 1978-----	12
Total-----	92

The RELOOK Promotion process selected 23 of 92 for promotion. 19 requested and were returned to Active Duty. Of the 92, 10 were Roman Catholic, 2 of those 10 were returned to Active Duty through the RELOOK promotion process. The total net loss of chaplains through the twice non-selection for promotion from July 1, 1970-April 1, 1978 was 73.

In addition, 54 chaplains were released through a reduction in force: 5 in FY 1971; 20 in FY 1972 and 29 in FY 1973.

At the beginning of FY 1971, the Army had 1,840 chaplains. For FY 1978 there were 1,443.

Senator NUNN. I understand the Navy now allows some twice-passed-over Reserve officer chaplains on active duty to continue on active duty in the same grade in areas where there are shortages. Is that right?

Admiral WINNEFELD. Senator, I can't respond to that. I would like to provide that for the record. I believe it possibly is so, if we do have shortages where we would use that authority.

Senator NUNN. That is our information. You don't have any information that would conflict with that?

Admiral WINNEFELD. That is right, I cannot verify it.

Senator NUNN. Can anybody else comment on that, any other naval officer?

Admiral WINNEFELD. We will provide it, sir.

[The information follows:]

CONTINUATION OF CHAPLAINS

In the last year three Chaplain Corps reserve officers in the grade of lieutenant commander, who had received two failures of selection for promotion to the grade of commander, were continued on active duty. All are Roman Catholic, a denomination currently underrepresented in the Navy's Chaplain Corps.

Senator NUNN. Is it fair to say that policy would be ended by DOPMA?

Mr. WHITE. No, sir, it depends on the grade in terms of selective continuation under DOPMA.

Senator NUNN. In 11 years they would be separated involuntarily under DOPMA?

Mr. WHITE. If they are Reserves.

Senator NUNN. Yes; the question was Reserves.

Mr. WHITE. I beg your pardon, I didn't hear that.

Senator NUNN. They are taking some twice-passed-over Reserve officer chaplains and they are continuing them on active duty in the same grade in areas where there are shortages. My question is, that policy of the Navy—we understand that is the policy of the Navy—would be ended by DOPMA and there would not be any flexibility to do that under DOPMA.

Mr. WHITE. DOPMA would either integrate those people by 11 years of service or they would leave; yes.

Senator NUNN. Well, under the Navy situation now, I will ask you, Admiral, if that policy ends, would you provide for the record what that would do to the Navy's current practice to retain twice-passed-over chaplains?

Admiral WINNEFELD. Yes, sir. We have of course, people, lieutenant commanders who were twice passed over for commander who we keep on to 20 years, so I don't know how many of the people you are speaking of are in that category. That is consistent with our current policy in any event.

Senator NUNN. Well, under DOPMA they would go whether they were chaplains or whatever they were?

Admiral WINNEFELD. They could be, sir, not necessarily, if they were lieutenant commanders we would retain them under DOPMA to 20 years.

Senator NUNN. That is only for how long, that is just the transition period?

Admiral WINNEFELD. No, sir, we have authority under DOPMA to keep on twice-passed-over lieutenant commanders to 20 years.

Senator NUNN. A Reserve officer?

Admiral WINNEFELD. You are speaking specifically of Reserves?

Senator NUNN. Yes, sir.

Admiral WINNEFELD. No; I misunderstood your——

Senator NUNN. I am speaking of Reserves.

Admiral WINNEFELD. Just Reserve chaplains, I would have to provide that, sir.

[The information follows:]

CONTINUATION UNDER DOPMA

The question of continuation of twice passed over active duty Reserve chaplains in the grade of lieutenant commander would not arise under DOPMA. The number of reserve officers needed in the various management categories to size the career force would be accomplished prior to their eleventh year of service; therefore, twice passed over lieutenant commander chaplains would be regular officers because their second failure of selection to commander would occur after the all-regular selection point. Under DOPMA, these officers could be continued to 20 years of service. Therefore, with respect to meeting the needs of the Navy, DOPMA would retain essentially the same authority to continue lieutenant commanders as was recently used in the case of three reserve lieutenant commander chaplains continued under present policy.

General UMSTEAD. I have discussed the DOPMA proposal personally with the Chiefs of Chaplains of the various services. They all understood the proposal very well. They all agree with the DOPMA provisions. They all have told me they feel they have adequate flexibility within the provisions of DOPMA to manage their individual chaplain force to their needs.

Senator NUNN. General, you might tell them that they are not communicating very well with their flock because the people we are hearing from are people all through the Military Chaplains Corps and there is a real problem of communication here. Most people that I have talked to who are chaplains and who know anything about this are adamantly opposed to it.

Mr. White, this committee has received a great deal of correspondence from chaplains. We have had several that we are going to put in the hearing record today. Let me just ask you how you respond to a typical letter from a religious superior who writes to this committee for an explanation of current policy. These superiors are getting two kinds of letters. One comes from the military services asking them to assign more clergymen to the military because of severe shortages; the other kind comes from the military chaplains they have assigned who are being forced out of the military and who prefer to stay in the military at the same grade.

The religious superior is asking why you are forcing chaplains out and then coming back and saying they won't send you enough chaplains. How do you respond to that kind of question?

Mr. WHITE. I think it is critical to understand from our point of view that a chaplain in the military is not just a chaplain but he is also a military officer and he has responsibilities. It is an extensive responsibility not only in terms of his ministry but in terms of being a professional military officer. He has to have attributes that meet both needs. It is not inconsistent that we find officers who do not meet some of those responsibilities and yet in the civilian world could be outstanding ministers. It is a double requirement.

Senator NUNN. You find that out only after they are in there 15, 16, 17 years?

Mr. WHITE. In some cases, yes, in some cases no.

Senator NUNN. That is where the terminations are coming. We have got a letter from a priest who says—and I think he makes a valid point here, I quote:

It is downright dumb to be short by more than 160 priests and eliminate any of them for the sake of mere policy and then go begging Bishops to send more priests to fill the need. That is computerized rigidity.

I can't argue with that. It seems to me there is a very valid point here.

Mr. WHITE. If you assume that those people who have not been promoted and have been selected out are competent to stay as military officers and chaplains, then we agree with you, Mr. Chairman. That is the issue, it seems to me.

Senator NUNN. You mean you have got people who have been in the service 17 years as military chaplains and then all of a sudden discover they aren't competent? What you are saying is they may not be as militarily competitive as the system desires because of non-chaplain requirements to be promoted to the next grade. I can understand that. But I am saying why can't they be retained in their current grade?

Mr. WHITE. As I said earlier, Mr. Chairman, we are looking at the policy, but I think you cannot simply separate their nonchaplain, if you will, requirements from the chaplain requirements.

Senator NUNN. I don't think you can either, but I believe that it goes to the whole heart of the up-or-out policy, and I think it goes to the heart of DOPMA. You are going to be flushing people through the system, getting them out based on computerized analysis and you don't have any flexibility to retain people in certain skills who happen to be Reserve officers. That doesn't make sense.

Mr. WHITE. I disagree with you, Mr. Chairman; I don't know what these particular skills are that you are speaking of.

Senator NUNN. Let's start with chaplains.

Mr. WHITE. I don't think that is necessarily the case. The point, with respect to DOPMA is to recognize the reality of the situation. Under DOPMA we will be integrating Reserves into the Regular force. That seems to make sense not only from the Department of Defense point of view but from the Reserve officers point of view.

Senator NUNN. Well—

Mr. WHITE. Then he is treated the same under the same rules. He is not singled out and treated differently than his peers, he is allowed to compete for the same career opportunities.

Senator NUNN. You can already do that under current law.

Mr. WHITE. You can do it but there is a considerable degree of difference in terms of these officers. As you know, over time they have been treated differently.

INITIAL APPOINTMENT

Senator NUNN. Why don't we back up there. I don't think DOD agrees with the subcommittee proposal that we put everybody, whether they graduate from an academy or ROTC on a caparable base. Why give Academy graduates the Regular status right off when they haven't proved themselves any more than ROTC? Why not let them compete from the very beginning if you want to do it that way?

Mr. WHITE. As I indicated to Senator Bartlett, I think it is an important point in terms of the Academy people, people who are making a commitment to a military career, that we provide them with recognition through the Regular commission.

Senator NUNN. You have just spent \$100,000 on them giving them an education which the ROTC guy paid for, why not let them compete on determination who is best by the service?

Mr. WHITE. I think they are going to compete anyway. That is the nature of the up-or-out system. They will compete.

CHAPLAINS

Senator BARTLETT. On the point you were making about chaplains, it seems to me that the reason that the chaplain after 16 or 17 years is not retained has nothing to do with his ability to perform his duties as chaplain, and doesn't have anything to do with his other ability as a captain, but has to do with the fact there are just no positions open above for this particular captain. Therefore, I can't understand why you don't want to retain him as a captain, not kick him out because you cannot raise him in rank for the reason that there is not an opening. You should keep him on, particularly when you have a shortage of chaplains.

This same thing occurred, as I understand it, with the doctors, and finally you make an exemption or exception for doctors. Why would you not want to make an exception here when I think it is obvious the system is not working?

Mr. WHITE. Well, as I said earlier, Senator, I just haven't had an opportunity to look at that issue. We have got it under review. I will be happy to respond either in hearings or for the record to this issue. I think it is a fair question and we are examining it.

Senator BARTLETT. I think the chairman has brought this out very clearly and I don't think that the answers you gave were correct, because I don't think those are the reasons. I think the reasons are very simple, there is not an opening and therefore the person qualified as an officer, qualified as a chaplain, leaves the job, is forced out of the job, and you can't get anyone else to take his position, and yet he is willing to stay on as a captain and as a chaplain.

I think the system has broken down and needs your attention.

Mr. WHITE. It has my attention. I will provide the results of our review of chaplain policy for the record.

[The information follows:]

Subsequent to the hearing, a board consisting of the Chiefs of Chaplains of the Army, Navy and Air Force considered the following issues and recommended the following policy for chaplains which has been approved as DoD policy.

ISSUES

A. Denominational goals

1. Are denominational goals for the procurement of chaplains objectively established?

Yes. Denominational goals for procurement of chaplains are established by each Service through the application of two basic factors: (1) the total number of active duty chaplain positions by the Service Department; and (2) the comparative sizes of those denominations recognized by the Armed Forces Chaplains Board for the purpose of providing chaplains to the Department of Defense.

2. Should unfilled denominational goals be filled with chaplains of other denominations?

Unfilled denominational goals, from churches which are unable or unwilling to meet their goals, must be filled with chaplains of other denominations in order to meet non-denominational workload requirements.

B. Performance evaluations

1. On what basis should chaplains be evaluated?

A chaplain's theology can be evaluated only by civilian denominational authorities. Since chaplains are at once representatives of a denomination or religious group and staff officers, they should be evaluated both on the basis of the application of their theological knowledge and ministerial skills in the military and on performance as staff officers.

2. Are evaluations made without due regard for denominational considerations?

Yes. The Chiefs of Chaplains' policy is that no chaplain should be unfairly evaluated because of denominational beliefs and practices.

3. Should a line officer evaluate a chaplain's performance?

There are aspects of a chaplain's mission that are appropriately evaluated by line officers. A line officer cannot evaluate the theology of a chaplain; but because of the line officer's experience, and with guidance and consultation of experienced senior chaplains, a line officer can fairly evaluate the effectiveness of a chaplain in applying the ministry of the chaplain's church to the religious needs of the personnel in the command.

4. Are there sufficient courses of action available for the correction of unfair evaluations?

There are sufficient courses of action to request relief from perceived injustice in evaluation, ranging from intervention and recommendations by supervisory chaplains and the Chiefs of Chaplains to formal appeal to official boards established for such purposes.

C. Promotion policy

1. Do chaplains compete with line officers for promotion?

No. In each of the Services, chaplains constitute a separate promotion category within which chaplains compete only with their contemporaries for promotion to each grade.

2. Should chaplain promotion boards be composed only of chaplains? Navy policy is that line officers should not be included in Chaplain Promotion Boards. Army and Air Force policies include Chaplain Promotion Boards with line representation.

D. Retention policy

1. Are Chaplain Corps retention policies consistent among all professional components?

Retention policies of the Navy and Air Force are consistent among the professional components. The Army is different, in that retention policies for doctors are not the same as those for chaplains and lawyers. This difference is established by Secretary of the Army policy.

2. Should twice non-selected chaplains be continued on active duty?

The Navy and Air Force have flexibility (within their unique Personnel Management Systems) to continue some non-selected chaplains on active duty of officers twice non-selected for promotion.

3. Should Reserve Chaplains be continued on Active Duty beyond their mandatory release dates?

All three Services have and utilize this capability to different degrees as indicated by their respective needs.

4. Are chaplains who are released due to non-selection eligible for appointment in the other Services?

The Chaplaincies concur that such appointment in another Service would be ill advised.

E. Relations with denominational authorities

1. Do denominational authorities have access to performance evaluations of their chaplains?

Yes. Chaplains may give permission that their performance evaluation records be made available to anyone of their choosing.

2. Should denominational authorities have access to promotion board deliberations?

No one may or should be provided anything beyond final approved promotion board results.

3. Should chaplains be involuntarily released from active duty because of non-promotion without withdrawal of ecclesiastical endorsement?

Yes. Non-promotion which results in release from active duty and the withdrawal of ecclesiastical endorsement by ecclesiastical authorities are completely unrelated actions.

F. Denominational shortages

1. Does denominational ministry suffer because of denominational shortages of chaplains?

The Chaplaincies concur that denominational shortages result in some reduction in some denominational programs. Efforts are made through area coverage by military chaplains and through utilization of Auxiliary Chaplains, contract clergy and military related lay leaders, to ensure that military personnel are not deprived of their basic denominational needs.

2. Are denominational shortages caused by promotion policy?

Denominational shortages are caused primarily by inability of denominations to provide clergy. Promotion policy has minimal effect on denominational shortages, while providing necessary and desirable quality control of the chaplaincy.

G. General considerations

1. Should rank and insignia of rank be eliminated in the chaplaincy?

No. The past history of the chaplaincy, (when chaplains served without rank from 1918 to 1925) current and past studies and experiments provide no justification for structuring the chaplaincy without military rank.

2. Should there be an integrated chaplaincy for all the Services?

This is not feasible unless the respective Services are integrated into a single Service.

Senator NUNN. Mr. White, I don't want to belabor this point on chaplains too long but let me give you one other example, since you are in the process of reviewing this now. There is a Rev. Heyward Knight, who is now the pastor of the Pine Grove Baptist Church in Thomson, Ga. He was recently forced out of the Army with over 17 years service, at the grade of major. He retained his church's endorsement as chaplain, is physically fit, and holds two masters degrees. I am not asking you about this particular case, but just in general, could you explain why someone who retains his qualifications as a chaplain would be forced out after 17 years and at the same time there is a shortage of chaplains?

Mr. WHITE. Well, Mr. Chairman, we have to ask the question from the Army point of view whether he is competent as a chaplain? Again I don't want to address the specific individual any more than you do and, second, whether or not he is competent as a military officer. We have to ask both of those questions.

Senator NUNN. Well, I think we have got a case where the Navy is taking one policy, keeping passed over chaplains, the Army is not, and there is a shortage of Catholic chaplains in the Army, and can the representative of the Army tell me today why Catholic chaplains are not retained after they are passed over in the Army when you have a shortage of Catholic chaplains?

General HEIDEN. As Dr. White has mentioned, we can't address these specifically. I can give you a little background. During the period from July 1, 1970, through the end of February of this year, out of 92 chaplains who were involuntarily released from active duty for being twice nonselected for promotion, only 10 were Roman Catholic priests. Two of those have been returned to active duty by the RELOOK process, the process whereby we have referred the record of passed over officers to an additional Board for a look.

Senator NUNN. That means you made a mistake the first time?

General HEIDEN. That is what the Board told us, sir.

Senator NUNN. Yes sir.

General HEIDEN. The Army chaplains of course, your reference to the individual that you quoted, we don't grade our chaplains on theology. We do demand that they provide proper religious services to the troops and additionally, there are other duties that our chaplains are called upon to perform and they must also manage funds when they are in certain positions.

Senator NUNN. But let me interrupt—

General HEIDEN. These are all duties that are associated with being a military officer as well, so they are graded if you will on both sides.

Senator NUNN. You are not saying everybody who is passed over is not qualified for the next promotion, that is not my understanding of the criteria at all, you are saying there was not enough slots for people, everybody who is not passed over twice in the military is not deemed not qualified, are they?

General HEIDEN. No, sir, what I am saying is that they were less better qualified than those who were selected.

Senator NUNN. Sure, but they are perfectly well qualified to stay on where they are and be a captain aren't they?

General HEIDEN. Yes; our chaplains, however, have their own separate promotion categories. They are not thrown into the pot, if you will, with the line officers. So they are treated in the same manner as the other commissioned officers of the force.

Senator NUNN. I still don't understand why you have a shortage of chaplains and you are making some retire who would like to stay in at the same grade. The Navy is not doing that. You do have a shortage of chaplains, don't you?

General HEIDEN. Not totally, sir, in certain denominations. The balance is not as we would like to have them.

Senator NUNN. Let's say you have a shortage of Catholic chaplains.

General HEIDEN. Over what we would like to have in the force, that is correct.

Senator NUNN. Are you forcing the retirement of some Catholic chaplains because they aren't being promoted?

General HEIDEN. Over the period of approximately 7 years there have been eight.

Senator NUNN. What is your shortage of Catholic chaplains now?

General HEIDEN. Approximately 160, sir.

Senator NUNN. One hundred and sixty short?

General HEIDEN. Yes sir.

Senator NUNN. And you are saying only eight in 7 years have been forced out by being passed over?

General HEIDEN. There were 10, 2 of whom have been recalled, that is correct, so the net is 8.

ALL REGULAR FORCE AFTER 11TH YEAR

Senator NUNN. Well, that is not the numbers we have got. Let's reconcile the numbers.

The whole point here is, Mr. White, I think there needs to be some flexibility in DOPMA to apply what we call commonsense to a computer operator. Wouldn't you agree it would be good for DOD to have some flexibility so that you retain people in grade when there were skill shortages and when they were perfectly well qualified to continue performing the function they are performing?

Mr. WHITE. I think DOPMA does that, yes sir.

Senator NUNN. Well, it doesn't do it. We know it doesn't. We can read the laws as proposed, after 11 years, Reserves are forced out.

Mr. WHITE. Well, there is some limit, Mr. Chairman, as to how long you need to evaluate Reserve officers. I think the 11th year is long enough in terms of this kind of situation to evaluate the Reserve officers and see whether they should be integrated to Regular status. If they are integrated there is a message there, it says something about

the judgment of the service with respect to the competency of that officer.

Senator NUNN. Can you think of any emergency or circumstances where Reserve officers with 11 or more years would be needed to meet a surge in active duty requirements?

Mr. WHITE. I think in a mobilization contingency we will need Reserve officers at all grades.

Senator NUNN. What about less than mobilization circumstances?

Mr. WHITE. None come to mind. I suppose we could think of a particular situation but I can't think of any off hand.

Senator NUNN. Isn't it true that the military services could have an all Regular force at higher grades under the current law?

Mr. WHITE. I don't know the specific answer to that question, Mr. Chairman. I just don't know the legal answer. Even if the answer is yes, I still see a great deal of virtue in having the all Regular system for both types of officers.

Senator NUNN. Do you agree with the previous Department of Defense testimony that about 6 percent of the Reserve officers will be involuntarily separated because of the provisions in DOPMA?

Mr. WHITE. Probably a maximum, I am told, Mr. Chairman of about 6 percent.

Senator NUNN. If these officers have met all appropriate criterion and have not been passed over, why would you want to separate them?

Mr. WHITE. I don't know what the category—

General UMSTEAD. That 6 percent would be at the 11-year point and would be for all reasons; for not being integrated and being passed over for promotion. To put that in perspective, you have to bear in mind that we bring in about 15,000 Reserve officers each year, and out of that year group that moved all the way up to the 11th year point you would only end up with about 850 of those officers who would have been separated mandatorily.

Senator NUNN. That would be 6 percent more than what is happening right now, wouldn't it?

General UMSTEAD. No, sir, we have to get our force down to the desired size under any circumstances and there is a continual process throughout each year of service of paring down the force and getting within the desired force profile.

INITIAL APPOINTMENT IN THE RESERVE

Senator NUNN. On another subject, Mr. Secretary, wouldn't it increase the selectability and true competitiveness of the whole system if no officers, including academy graduates, were given Regular appointments when they originally entered on active duty? In other words, if we are going to go with this full competitive system and really screen people out at year 11 that are Reserves, why not just let everybody compete from the very beginning and choose people strictly on the basis of performance? I assume that those with outstanding academy background and preparation will always in most cases surface as a person is competing in the system.

Mr. WHITE. I think it is just an added feature in terms of recognizing the choice that these individuals have made. Mr. Chairman, I think it is warranted. I think they will continue to compete, I don't think it makes that much difference.

Senator NUNN. How do you compete with somebody who already has a Regular commission if you are trying to get one?

Mr. WHITE. What you are competing for is selection for promotion.

Senator NUNN. You are competing like mad to not get drummed out of the service after 11 years if you are a Reserve officer, where a Regular officer graduate from the Academy doesn't have that problem.

Mr. WHITE. If he turns out, after having graduated from the Academy, not to be competitive he has a different problem. He won't be around at the 11th year.

Senator NUNN. Let's assume competency on the part of both, let's assume a competent Reserve officer and a competent Regular officer, the competent Reserve officer if he doesn't stay in he gets drummed out at 11 years.

Mr. WHITE. If he is equal to the other given the size of the Military Academy classes he is going to be integrated. The numbers authorized will allow that.

Senator NUNN. You mean all Reserve officers equal to the least competent retained Regular officer will be retained after 11 years?

Mr. WHITE. I think so, yes, sir.

Senator NUNN. Where does the 6 percent come from?

Mr. WHITE. Well, I would have to go back and look in detail at the specifics of the 6 percent, but what General Umstead indicated is recognition of all categories of losses of people who would leave under DOPMA.

Senator NUNN. You wouldn't object very strenuously if we were to make everybody compete on the same basis, would you?

Mr. WHITE. I think they could.

Senator NUNN. For a Regular commission?

Mr. WHITE. I would obviously prefer to see the Academy people continue to receive the Regular commission. I think it is a feature that is desirable.

Senator NUNN. Well, of course, what is the Academy commitment when you are commissioned? How long are you committed to serve in the services?

General UMSTEAD. Five years. This is also the probation period under DOPMA.

Senator NUNN. Under DOPMA?

General UMSTEAD. Yes, sir.

Senator NUNN. What about current practice?

General UMSTEAD. Three years probation under the current system.

Senator NUNN. Instead of just 2 years transition, DOD has proposed an amendment to the House-passed bill to allow all current Reserve captains to be continued until they twice fail promotion to major. Why do you feel this change in the House-passed bill is necessary?

Mr. WHITE. I am sorry, sir, to allow—

Senator NUNN. Yes, sir, DOD proposed an amendment to allow all Reserve captains to be continued until they twice fail promotion to major.

Mr. WHITE. It is an equity consideration, giving them the opportunity to compete and make sure that they are treated fairly.

Senator NUNN. If you have these concerns about the fairness and equity now, why don't you have some of these same concerns in the future?

Mr. WHITE. I think we will continue to have those concerns, Mr. Chairman.

Senator NUNN. You are going to be locked in law when this passes unless there is some change made, some more flexibility.

Mr. WHITE. We are going to be locked into law in terms of locking out people who didn't adequately compete in the selection from O-3 to O-4.

SELECTIVE CONTINUATION

Senator NUNN. DOPMA includes authority for early selective separation of O-5's and O-6's. Past witnesses have opposed including such authority for majors. In your opinion, wouldn't such a provision for early separation of majors be wise?

Mr. WHITE. I don't see the need for it under the current system. You have a situation, as you know, about the way the compensation system is structured and I think it makes a difference in the way you treat majors versus the way you treat O-5's and O-6's.

Senator NUNN. This question is for the Air Force. On the selective early retirement of lieutenant colonels I received a copy of a letter sent in March to an Air Force lieutenant colonel that reads in part, and I quote:

Given passage of the proposed Defense Officer Personnel Management Act, the selective continuation feature of that legislation could result in your involuntary release from the service prior to your mandatory date.

The letter seems very harsh and also an example of how Congress and the law are blamed for what is really a subjective evaluation by the Air Force.

General, are you familiar with this letter?

General DAVIS. I am.

Senator NUNN. What is your explanation for this?

General DAVIS. Explanation for the management letter?

Senator NUNN. Well, here is the letter. I will quote it again. "Given passage of the proposed Defense Officer Personnel Management Act"—of course, it hasn't passed yet.

Mr. WHITE. I understand.

Senator NUNN. It may not.

Mr. WHITE. I understand.

Senator NUNN [reading]:

The selective continuation feature of that legislation could result in your involuntary release from the service prior to your mandatory retirement date. Due to this I believe you should seriously consider voluntary retirement now.

Wouldn't you say that is going a little too far, taking a law that hasn't passed and saying that given its passage that you might be involuntarily retired, therefore, you should retire now? That is addressed to a lieutenant colonel serving in the Air Force dated March 21, 1978.

General DAVIS. Yes sir, Senator. Our selection board reconvened to look at people's record who have less than competitive records. In this case I believe we looked at some 25 lieutenant colonels whose performance has not been on a par with their peers and the recommendation was that the individual consider retirement.

Senator NUNN. Why not just tell him that instead of blaming it on an act of Congress that hasn't even passed? This is incredible to me, the Air Force is hiding behind this. I expect you to hide behind acts

that have been passed. I can't do anything about that. But I don't expect you to hide behind acts that have not passed in doing something you want to do anyway. That is incredible to me. This to me is a very strong example of going far beyond any kind of commonsense of equity and fairness in terms of a military superior speaking to an officer.

General DAVIS. Do you have the whole letter there?

Senator NUNN. I have got it right there.

General DAVIS. I think there are other phrases in there that make the point that I just made in comparison with his peers. Why didn't you read the whole letter, Senator?

Senator NUNN. I will put the whole letter in the record. But, General, in this letter you have clearly stated that the DOPMA proposal is what is driving this man out of the service.

General DAVIS. No; I don't think so, Senator. If you will read the whole letter.

Senator NUNN. You say:

In December 1977, the Temporary Colonel Quality Review Board conducted a review to identify those lieutenant colonels whose recorded performance was well below that of their peers. Although your attaining the grade of lieutenant colonel is a significant achievement, your record was among the lowest when compared with other lieutenant colonels. Given passage of the proposed Defense Officer Personnel Management Act, the selective continuation feature of that legislation could result in your involuntary release from the service prior to your mandatory retirement date. Due to this I believe you should seriously consider voluntary retirement now.

It is not easy to extend this advice, Colonel—

I will leave the name out—

but I urge you to weigh this matter carefully. It will become increasingly difficult for you to match the competition for positions commensurate with your grade. I hope this letter provides you useful information for your future planning.

I stand by exactly what I said, to tell a person they ought to voluntarily retire from the service now because you are going to have an act of Congress passed—

General DAVIS. Because he is not competitive also.

Senator NUNN. Why did you throw the DOPMA proposal in?

General DAVIS. It is all part of the same picture, it is part of the—

Senator NUNN. What are you going to do with the man if we don't pass the DOPMA proposal?

General DAVIS. He has tenure to 28 years. He will probably stay to 28 years. We cannot force him out. That is part of the selective continuation feature.

Senator NUNN. Why are you identifying people under the current law you couldn't select out and notifying them in advance of an act of Congress that you are going to drum them out if we pass this act?

General DAVIS. I don't think the letter says that, that we are going to drum them out.

Senator NUNN. Well, it doesn't say those words.

General DAVIS. No.

Senator NUNN. I will read it again if you want me to.

Given passage of the proposed Defense Officer Personnel Management Act the selective continuation feature of that legislation could result in your involuntary release from the service prior to your mandatory retirement date. Due to this I believe you should seriously consider retirement now.

Due to what?

General DAVIS. Not being competitive.

Senator NUNN. General, anybody reading that letter would read it due to the passage of the act and you just stated unless the act passes you can't really terminate this man. So it is due to the passage of an act that you are referring to. That is clear in the letter.

General DAVIS. Well, we have got—

Senator NUNN. Let me ask Mr. White. I will ask the clerk to show Mr. White the letter and let's ask his interpretation of it.

Mr. WHITE. I have already read it. I think what it says is that if DOPMA is passed it will provide us with a mechanism by which this individual could be selected for early retirement and we do not now have that provision.

Senator NUNN. Do you think it is appropriate for an official letter to go out from the Air Force telling an officer this in advance of an act being passed by Congress and encouraging them to voluntarily retire?

Mr. WHITE. I don't read the voluntary retirement that way. I think what is happening here, you are giving people information which they ought to have. I think the individual is being treated more fairly by having this information than by not having it.

Suppose we wait, he doesn't know about DOPMA and it is passed, and then he gets a letter saying, Oh, by the way, the law was changed and now we are going to select you out.

Senator NUNN. If you agree with this letter and the spirit of it, I think we may have a long way to go before DOPMA passes.

Mr. WHITE. Well, you say if I agree with the spirit. I agree—

Senator NUNN. You approve this letter using an act of Congress that has not passed to tell somebody they are about to leave the service.

Mr. WHITE. It doesn't say that, sir, I don't think.

Senator NUNN. I personally read it 25 times.

Mr. WHITE. It does not say that they are about to leave the service.

Senator NUNN. It very clearly encourages a person to voluntarily retire now. That is what it is saying, retire now.

Mr. WHITE. That is right, that is what it says. It says: "Due to this I believe you should seriously consider voluntary retirement now." And in all that paragraph it indicates two things, one, where the individual is standing competitively, and two, while it is not the case now, under DOPMA he could be selected out.

Senator NUNN. Is that an Air Force policy, or is this happening in all the services?

Mr. WHITE. This is the first I have seen it.

Senator NUNN. I thought you read it.

Mr. WHITE. No sir, I have never seen it until you raised it.

Senator NUNN. But you are saying that is fine?

Mr. WHITE. I am saying that we are better off telling people where they stand now.

Senator NUNN. Has the Army done this?

Mr. WHITE. I don't know.

Senator NUNN. Let me ask the Army.

General HEIDEN. We do provide counseling letters to our officers. We have not mentioned DOPMA in the letter.

Senator NUNN. How about the Navy?

Admiral WINNEFELD. We don't have a review board such as has been described.

Senator NUNN. How about the Marine Corps?

General AITKEN. We have counseling letters similar to the Army, Senator, but we have not referred to any pending legislation.

Senator NUNN. How many people has the Air Force sent this letter to, General Davis?

General DAVIS. I furnished the exact numbers to Mr. Travers in the past, less than 10 this past year.

Mr. TRAVERS. Less than 10 letters have gone out.

Senator NUNN. Are you still sending them out?

General DAVIS. We have not had a selection board this year.

Senator NUNN. This was based on last year's selection board?

General DAVIS. Yes, sir.

Senator NUNN. The letter was written this year?

General DAVIS. Say that again.

Senator NUNN. The letter was written this year, but the selection board acted last year?

General DAVIS. Yes, sir.

Senator NUNN. Well, I assure you if that letter was read into the record on the floor of the U.S. Senate and made a point of debate, there will be a lot of people who would vote against this legislation. I think Congress feels they have enough burden to bear without having advanced notice going out to people that if Congress passes a certain act you had better get out of the service now because they may pass it.

Mr. White, I will ask you again your opinion of the appropriateness of the letter.

Mr. WHITE. Well, sir, I think, it is appropriate to indicate to people what their status is. DOPMA is an administration proposal, Senator, I don't think this blames the Congress for anything. This is our proposal. The questions have come from the Congress and rightly so, about how it is going to affect our officers. We are recommending this. We are not saying the Congress did something to you which we didn't want to have done to you.

Senator NUNN. No, you are not saying that, you are saying the Congress is going to do—

Mr. WHITE. No, sir, we are saying that if the Congress is to accept the administration proposal then the outcome will be the following. For this individual it will not be a desirable outcome but we are informing individuals about legislation which we have recommended to Congress.

Senator NUNN. I am glad to know your opinion of it. I have my opinion also and I fundamentally disagree with you and the Air Force on this particular point.

[The letter referred to follows:]

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS U.S. AIR FORCE,
Washington, D.C., March 21, 1978.

You have probably kept abreast of continuing Congressional scrutiny of the size and composition of the officer force. Although we have passed through the major period of force reductions, we must still exercise stringent quality control of the entire force. In short, we must identify those officers in all grades whose performance and potential do not compare favorably with other officers serving in the same grade.

In December 1977, the Temporary Colonel Quality Review Board conducted a review to identify those lieutenant colonels whose recorded performance was well below that of their peers. Although your attaining the grade of lieutenant colonel

is a significant achievement, your record was among the lowest when compared with other lieutenant colonels. Given passage of the proposed Defense Officer Personnel Management Act the selective continuation feature of that legislation could result in your involuntary release from the service prior to your mandatory retirement date. Due to this, I believe you should seriously consider voluntary retirement now.

It is not easy to extend this advice, [deleted], but I urge you to weigh this matter carefully. It will become increasingly difficult for you to match the competition for positions commensurate with your grade.

I hope this letter provides useful information for your future planning.

Sincerely,

B. L. DAVIS,
Lieutenant General, USAF,
Deputy Chief of Staff, Personnel.

RETENTION OF MEDICAL OFFICERS

Senator NUNN. On the question of doctors, in recent testimony before the Appropriations Subcommittee, General Rogers indicated several actions are being taken to slow down up-or-out policies with regard to doctors. Under the authority in law for physicians, the Army is offering exceptions to mandatory retirement of physicians at 28 years, lieutenant colonels, or 30 years for colonels, and also offering exceptions to retirement at 20 years for Reserve officers.

DOPMA would require separation at 11 years, no exemption for doctors. Selecting professionally qualified physicians for retention in grade rather than forcing them out as a result of two time failure for promotion. DOPMA requires separation of O-3's and O-4's.

In addition, the bill requires a Regular medical or Regular dental officer should be subject to involuntary retirement, selection continuation and separation provisions of this chapter.

This strengthening of up or out appears to run counter to some of the initiatives by the Army. In addition, it seems to make the doctor shortage worse. Do you agree?

Mr. WHITE. I don't know that it runs counter. I guess the specific things couldn't be done under the act. I don't think it necessarily causes an increased problem with the shortage. The shortage is much more fundamental than that, Mr. Chairman.

Senator NUNN. Why wouldn't you want to keep passed over physicians at the O-3 and O-4, as you do now?

Mr. WHITE. Well, I would have to look at the specifics of the situation, Mr. Chairman. I don't know how many passed over O-3's we are keeping.

Senator NUNN. Does the Army know?

General HEIDEN. No; doctors come into the Army at a grade of O-3 due to constructive—

Mr. WHITE. I think we have 100-percent opportunity for promotion to the O-4 grade for doctors.

Senator NUNN. Are you saying there would be very few doctors passed over?

General HEIDEN. Very few.

Senator NUNN. Could you furnish that for the record?

General HEIDEN. Yes sir.

[The information follows:]

RETENTION OF MEDICAL OFFICERS

Our current promotion policies for doctors and dentists are consistent with the provisions of the proposed DOPMA.

Promotions to major are currently under the fully qualified criterion. All doctors and dentists are promoted to major unless they are determined not to be fully qualified.

During the last several years, the Army has mandatorily separated no doctors or dentists because of promotion nonselection to the temporary grade of major or the Regular grades of captain or major.

Since doctors and dentists will continue to be excluded from grade accountability under the proposed DOPMA, the Army would plan to continue the fully qualified promotion policy to the grade of major. Also under DOPMA, we would expect most of our doctors and dentists to be integrated into the Regular Army before they reach eleven years of service because of the constructive service credit they would have received for promotion consideration. The fully qualified promotion to major would, therefore, be the primary screening point for our doctors and dentists.

The continuation provisions of DOPMA offer us additional flexibility for our promotion considerations to lieutenant colonel. Doctors or dentists who twice fail of selection for promotion to lieutenant colonel, can be selectively continued to 20 years of service. Providing the doctors and dentists are considered to be fully qualified in their profession, the Army could continue those who failed of selection.

Additionally, since under DOPMA constructive service credit will not be used in computing retired pay, there should be a greater incentive for lieutenant colonels and colonels to serve to their mandatory retirement point (26 and 30 years of service respectively) than there is today.

Senator NUNN. Thank you very much, Mr. White and General. We will continue to be in touch with you on this legislation.

Mr. WHITE. Thank you.

Senator NUNN. I have additional questions which I will insert in the hearing record and you can supply the answers.

[The questions with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR NUNN, ANSWERS SUPPLIED BY MR. WHITE

Senator NUNN. Mr. White, do you agree that the DOPMA proposal is "not directly linked to objectively determined military personnel requirement" (Quote from Dellinger-King Study done for the committee).

Mr. WHITE. No, I don't agree with the statement.

Senator NUNN. If you disagree, how does it relate to the actual requirements to have officers in certain grades?

Mr. WHITE. The proposed grade tables in DOPMA were designed to be statutory ceilings under which the active-duty officer forces can be managed to meet changing requirements, while effectively providing reasonable consistency in personnel management policies.

Officer force levels and grade structure are developed and reevaluated on a continuing basis as part of the Planning, Programming and Budgeting System (PPBS). This decision making process is based on strategy and plans to support national security objectives and to respond to the perceived threat.

As part of this highly structured process, each Service designs its forces; establishing the number and type of units and manpower required to accomplish the military missions, tasks, and functions within stated constraints. In this process, the military unit is the essential building block of capability and resources. Each Service uses doctrinal studies, workload measurement techniques, and position criteria to validate the manpower required in each unit. Therefore the summation of the officer content of all units determines the number of officers in each grade required for a given military force level.

The Department of Defense is required to show the relationship between these objectively determined requirements of the force structure and the actual officer strength and grade distribution on an annual basis as part of the budget review process. At the time of its initial development, the DOPMA grade tables would have authorized a grade distribution 14% below the 1974 requirements. The tables would now authorize 10% less than the 1979 requirements.

The following chart compares the DOPMA grade limits to the aggregate of stated Service requirements for the two years 1974 and 1979. It should be noted that the total officer force strength in 1979 is less than it was in 1974.

DOPMA GRADE LIMITS COMPARED TO REQUIREMENTS

Grade	1974			1979		
	Requirements	Limits	Difference	Requirements	Limits	Difference
O-6	15,455	14,196	-1,259	12,634	12,247	-387
O-5	38,051	32,781	-5,270	32,058	29,379	-2,679
O-4	61,525	51,781	-9,744	53,205	46,459	-6,746
Total, O-6/4	115,031	98,758	-16,273	97,897	88,085	-9,812
Percent			-14			-10

Costs

Senator NUNN. On page 15 of your statement, you say "Our analyses indicate that this type of system (referring to the up or out system) does not cause excessive costs but on the contrary can be less costly than other reasonable alternatives." It seems to me that costs should be a consideration.

Over the next 5 years, the Congressional Budget Office estimates H.R. 5503 would increase costs by about \$34 million. Under the changes in policy previously outlined as an alternative by this subcommittee, CBO estimates 5 years savings would exceed \$400 million including the increased separation pay of H.R. 5503. Now, would you agree that these savings are significant and that such an alternative should be pursued?

Mr. WHITE. It is estimated that implementation of H.R. 5503 would cost about \$34 million over the first 5 years. However, without the increased separation pay provision in H.R. 5503, DOPMA would save about \$46 million. As we understand, the Subcommittee alternative envisions the following management policies: 50 percent promotion opportunity to the O-4 grade; continuation of 50 percent of non-selected O-3's to 20 years of service; and continuation of 50 percent of non-selected O-4's who reach 20 years of service to 24 years of service.

These policies represent a radical change in the officer personnel management system, and, over a 5-year period these policies would produce a reduction of about 12 percent from H.R. 5503 in the field grade strengths (about 31 percent in the longer term). The CBO estimate of a \$400 million 5-year savings was based on these management policies and the assumption that retention rates of junior officers will not change. The loss of personnel from year to year, either voluntarily or involuntarily, is one of the primary variables which help to shape the force and determine promotion points, training requirements, accessions and the like. To assume that the extreme change in the system, contained in the Subcommittee alternative, would not effect retention is unrealistic.

To represent the \$400 million figure cited in the question as savings ensuing from implementation of the Subcommittee alternative is very misleading and a comparison of figures which are not truly comparable. It should be noted that the CBO analysis also showed that a moderate decrease in junior officer retention at end of obligation points would change the 5-year estimate from a \$400 million reduction to a nearly \$400 million increase in costs under the Subcommittee alternative. It is possible that this cost could be even higher if the current training structure can not meet the increased training requirements and new facilities need to be opened.

In summary, a \$400 million cost reduction can only be achieved if personnel behavior does not change and can be viewed only as the maximum possible reduction. On the other hand, a \$400 million added cost is a more realistic 5-year estimate of the Subcommittee alternative.

As I indicated in my statement, we are sensitive to the concerns that have been expressed over the cost of the up-or-out concept. In considering various alternatives involving continuation of officers not selected for promotion, we weighed the relatively small range in cost differentials they would produce against the management and force structure changes that would be necessary. In some cases, it was found that, even with substantial field grade strength reductions, continuation of passed over officers could result in increased costs, since increased longevity and retirement costs under higher continuation modes more than offset reductions in training and procurement. Thus, the Department has concluded that the up-or-out system does not generate excessive costs. Rather, it provides an effective means of managing the force not only to maintain a desirable balance between

youth and experience, but also to control the long range costs of the overall system.

Senator NUNN. I understand that in the long run and so-called "steady state", H.R. 5503 would save about \$260 million. I am not sure that we ever really reach that so-called "steady state." However, if the alternative policies outlined by this subcommittee were followed, five year costs could be more than \$2.2 billion lower. Given these estimates, wouldn't you agree that costs should be a consideration?

Mr. WHITE. As I have indicated in my statement, DOPMA was not designed primarily as a cost reduction measure; however, when DOPMA is compared to the current management system under steady state conditions an annual savings of \$219 million in fiscal year 1978 dollars (2.4 percent of total systems cost) result. Using the same steady state modeling technique, but applying the Subcommittee's alternative policies in the model, a \$2.2 billion cost reduction over 5 years can be projected. In annual terms, this amounts to \$445 million (4.9 percent of total systems cost). It is this figure that is comparable to \$219 million in cost reduction that DOPMA would produce.

To achieve the \$445 million in annual cost reduction cited above, however, drastic changes in basic policy were postulated in the alternative. When compared to DOPMA, the alternative dictates a 38 percent reduction in promotion opportunity to the grade of O-4, a 31 percent reduction in field grade officer strength, and continuation of 50 percent of passed over O-3's to 20 years of service, and continuation of 50 percent passed over O-4's at the 20 year point to 24 years of service—with the assumption that all these changes would have no effect on officer retention behavior. Hence, the savings hypothesized do not take into account the costs in turbulence that would result in transitioning to and sustaining such a system. For example, DoD and the CBO in analyzing the cost of transitioning to the alternative examined the effect that a 33 percent reduction in end of initial obligation retention would have. This single change in the assumptions resulted in \$400 million in additional costs over 5 years vice a \$400 million reduction. This estimate is conservative because it does not take into account the violent and costly oscillations in the force that are bound to result from the actions needed to effect such a drastic reconfiguration.

From the foregoing, it is clear that the management features of DOPMA present far less risk than the alternative. In addition, DOPMA has good prospects of yielding a 2.4 percent savings in total systems cost over the current system and provides the force balance DOD considers necessary for an efficient officer force that will meet officer grade requirements. On the other hand, the alternative would require extensive revision of basic policies, including a reduction in field grade strengths 40 percent below current requirements, for a very tenuous 4.9 percent reduction in annual total systems costs. It ignores the cost of turbulence and probable retention rate changes—and consequently overstates the possibility of savings.

Finally, these and other analyses that we have undertaken on different management systems clearly indicate that total system costs tend to be counterbalancing. "Highflow" systems generate increased procurement and training costs that are offset by reduced retirement and grade structure costs, while "low-flow" systems have the opposite effect. Thus, while costs were considered in developing DOPMA, the basic thrust of the effort was directed to the task of improving management of officer personnel and providing greater equity to individuals in the system. DOPMA accomplishes these objectives with slight transitional costs, with good chances of long-range savings.

RESTRICTION ON CONTINUING O-3's

Senator NUNN. Under current law, the military department Secretaries may selectively continue Reserve active duty O-3s. This continuation authority has been used repeatedly by the Services in the past. Why does DOPMA absolutely prohibit the selective continuation of O-3s even when they are needed and the O-3s would like to continue?

Mr. WHITE. It is our view that there is sufficient overall flexibility in DOPMA to preclude the necessity for these specific provisions. Although isolated instances could be cited where the talents of passed over O-3's might be utilized, these are individual cases and there is no compelling need for continuation of these officers during peacetime. In time of war or national emergency the services of passed over officers could be utilized because of increased manpower requirements. In recognition of this DOPMA contains authority to suspend, by Executive order, the provisions regarding involuntary separation.

Senator NUNN. Why would you object to having this kind of flexibility available in the future?

Mr. WHITE. The Department firmly believes that the National Security interest is best served by a system that recognizes the people we need through the positive incentive of promotion rather than one that continues others in a second class category. Our objective is to achieve the most effective, highly qualified, and motivated officer corps. To achieve this end we need a clear expression of Congressional support for the up-or-out principle with regard to officers who have not been selected for entrance into the career (O-4 and above) active duty force.

Senator NUNN. Our next witness is Maj. Gen. Milnor Roberts, Executive Director of the Reserve Officer Association of the United States.

We are glad to have you this morning and we are pleased to receive your views.

STATEMENT OF MAJ. GEN. J. MILNOR ROBERTS, USAR, EXECUTIVE DIRECTOR, RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

General ROBERTS. Thank you, Mr. Chairman.

In view of the fact that I think some of the audience did not have a chance to get our rather short statement, I would rather read it.

Senator NUNN. Go right ahead.

General ROBERTS. Mr. Chairman and members of the committee, it is a privilege to be allowed to testify before this body on H.R. 5503, proposed legislation which is considered to be very important to the personnel management system of the total armed services. We believe the Department of Defense should be commended for undertaking the monumental task of providing guidance for fair and equitable management of official personnel of all armed services. The Reserve Officers Association numbers among its 111,000 members officers of all services, active duty, Regular, Reserve, inactive duty Reserve, and retired. All segments of this variegated membership are affected to some degree by the statutes that DOPMA proposes to revise.

This organization is mandated to support the objectives of this bill and herewith declares that support; additionally, some comments and recommendations are offered here with the intent that they be useful to this subcommittee in its scrutiny of all means of enhancing the bill's effectiveness.

Senator NUNN. When you say the organization is mandated to support the objectives of the bill, you mean your organization has voted along that line, your membership?

General ROBERTS. Yes, sir, in 1976, at our convention in Miami, Fla., a mandate was passed by the convention which supported DOPMA generally with some reservations. In other words, it was not total support.

In 1977, at our convention in Seattle, Wash., a modification of this first mandate was passed, which again supported the bill generally, with some exceptions, which I have included in my testimony.

Senator NUNN. Thank you.

General ROBERTS. 1. ROA understands the delicate interaction between grade authorizations, promotion timing, and promotion opportunity. This organization, therefore, specifically supports the grade table authorizations contained in H.R. 5503 since its imple-

mentation will provide an equitable promotion opportunity and optimum promotion phase points. We recognize and must point out, however, that any significant deviations from the authorized strength ratios will cause much personnel turbulence.

For example, if some strengths are lowered, there must be either a compensatory lowering of promotion opportunity or delay in promotion timing or both.

2. It is noted that in H.R. 5503 a twice nonselect to O-5 grade is required to be separated unless the Service Secretary convenes a board to review and recommend continuation on active duty. ROA recommends that the language be changed from being permissive to requiring the Secretary convene a board to determine who of the nonselectees would be terminated. All nonterminated individuals would then be continued until minimum retirement is reached. This is a turnabout in emphasis and we believe it would have a beneficial influence on officer morale as it provides career assurance to the O-4 except in those cases where a reduction in strength is necessitated.

3. On the subject of continuation of nonselect officers, this organization recognizes some merit in a limited selective continuation of nonselect O-3 officers if required for specific specialties. However, such a program would be strongly opposed if it should result in any decrease in the 80-percent promotion opportunity to O-4 grade which will result from implementation of the DOPMA proposed grade table authorizations. If the subcommittee considers any action in favor of O-3 continuation, it is recommended that provisions also be made in title 37 to allow periodic pay increases for the continues after the 14th year.

4. We believe that the single promotion system has merit, although some members have some concern as to the impact caused by all officers becoming Regulars by their 11th year. If all the active duty officers are Regular, the Reserve Forces would not have the opportunity to gain through EAD the knowledge and experience needed in higher grades. Active duty for reservists would be limited to the specialized statutory tours.

I would like to add a comment that if this becomes law we believe the number of sections 265 and 303 tours should be expanded and, as a matter of fact, in another piece of legislation, which we hope will come before you in the near future, we make recommendations along that line.

This they view as detrimental to the preparedness of the Reserves. Some have voiced the opinion that the grandfather clause is unfair to the currently serving reservist since he must now be selected by his 11th year and will not obtain tenure for 20 years minimum until promoted to O-5, while the currently serving regular grade O-4 still has this lock in. The present system only offers a guarantee to the reservist after 18 years.

DOPMA makes the former reservist more vulnerable to future release. These provisions of the bill are viewed with great concern by the reserve community on EAD. These provisions will, in effect, say to the selection and the O-4 promotion boards that, particularly in the case of the Army, here is a Reserve officer who did not make his commitment early in his career and probably has less career interest than an earlier integrator to the Regular list.

We believe that the 11th year integration is a desirable management objective in view of current pension plan practices and vested rights prescribed by law for civilian industry only if the same approach is in accord in the provisions of RMA legislation. Since there has been no action on RMA and the law does not provide protection to the late integrating reservist, we urge cautious acceptance of this principle.

5. The composition of promotion boards does not specify the number or that Reserve officers must be members of boards that consider Active Reserve and Regular officers for promotion. The bill states Reserve officers will be on the boards when possible and when possible shall include an appropriate number. We recommend that this wording be specific by requiring a proportionate number based on distribution of the ground being considered.

6. Although some attempt has been made to lower the maximum readjustment pay for involuntarily released officers from \$30,000 in H.R. 5503, ROA supports retention of the \$30,000 as most appropriate in view of accelerating living costs.

7. Inasmuch as large number of ROA's membership are selected reservists, this organization is particularly pleased that H.R. 5503 offers promotion protection for these fine officers in event of mobilization. We believe it grossly unfair to mobilize the finest and most ready of the reservists and then present them in promotion competition with contemporaries who have had continuous active duty assignments to their benefit. Experience has shown the reservist, however excellent, to fare badly when thus handled, and ROA applauds the fact that these reservists will be considered for promotion with reserve boards. However, we believe that a definite cutoff of this should occur at the 1-year point; by that time, the reservist should be able to compete with his career compatriots. In an extended general mobilization, a common standard should apply.

Mr. Chairman, in closing, I would reiterate the ROA stand in support of H.R. 5503, stipulating that the modifications we have made are offered in an effort to improve this much needed bill.

We understand that a follow on bill will be introduced later for Reserve Officers Personnel Management improvements. ROA urges earliest action on ROPMA and its companion bill, the Retirement Modernization Act, since both will become very important upon implementation of DOPMA. ROA would also be pleased to be allowed to testify on those bills as appropriate.

I thank you for this opportunity today.

I might also add, Senator, that subsequent to my testimony you will hear from Major Fowkes, who is a member of the Reserve Officers Association. Major Fowkes will be speaking for himself and for some of his group from the European Department.

I think it is important to point out that my testimony is the official testimony of the Reserve Officers Association.

I would also offer, in view of the previous testimony by other witnesses, the suggestion that I think there are incompatibilities between the view of the Commission and DOPMA. Just how these incompatibilities are resolved is the difficult question, but I think there are differing points of view on holding people for extended periods in connection with their retirement and forcing people out.

Also, I would suggest that possibly one of the reasons the Reserve has improved lately is the fact that Reserve general officers serve in

their positions for fairly extended periods. Our problem was not so much brevity of their stay but in some cases the length of it, and what we did in the Army side was to limit the tenure of a general officer to 4 years, in a command position, feeling that this is a good time for him to serve but not too much time so he would block advancement of others and could be used, as a matter of fact, in other capacities.

Senator NUNN. That is not to limit his time as a general officer but to limit his time in one position?

General ROBERTS. Yes, sir, the law says a person promoted to the rank of O-7 has 5 years to serve in that grade and then if not promoted, or if reaching age 60 will be retired. If he is promoted to O-8, he can serve 5 years in that grade before reaching age 60, or that would be the cutoff point.

Senator NUNN. General, I have to go vote and I will ask George Travers to ask you a couple of questions I particularly want you to answer.

Mr. TRAVERS. General Roberts, when you testified before the committee earlier this spring, you said you thought the Congress should deal with the recommendations of the President's Commission on Military Compensation before dealing with DOPMA. Is that still your view?

General ROBERTS. Well, as I said earlier, Mr. Travers, it would appear to me that there are some basic inconsistencies between their findings and the various proposals of DOPMA having to do with up or out. Probably an answer would be greater flexibility within the DOPMA legislation than I think is there now.

Mr. TRAVERS. Does that say that it doesn't matter which comes first as long as you consider what the—

General ROBERTS. I think that our organization in general, Mr. Travers, feels action on a major part of DOPMA is very badly needed. I think that to delay action on the entire bill for some indefinite time would be counterproductive. Certainly the Air Force badly needs relief on grade limitation, the Navy has special problems in personnel management that are awaiting solution of DOPMA, and I think there are other aspects that need to be acted on quickly. Possibly some of these provisions could be enacted this year and then when the Zwick commission recommendations are acted upon the rest of it could be acted upon.

Mr. TRAVERS. In January of 1977, after previous subcommittee hearings on this bill, you wrote to Senator Nunn to emphasize the ROA opposition to DOPMA. In that letter you said, "Our members are convinced that substantive changes are needed in order to assure equality for all officers so that we have the best possible military personnel management system." Is this still your view?

General ROBERTS. Our view is now as I expressed it this morning, Mr. Travers, as a result of various extensive studies by a specially appointed committee of our senior people, and I think I pointed out in this testimony areas which we think need to be included in the bill, or modifications made which we think would improve it.

Mr. TRAVERS. Thank you very much, General Roberts.

General ROBERTS. Thank you.

Mr. TRAVERS. We will take a short recess until the chairman returns.
[A short recess was taken.]

Senator NUNN. Our next witness is Maj. Gordon Fowkes, U.S. Army Reserve, National Councilman for the Department of Europe, Reserve Officers Association of the United States.

Major Fowkes has been involved over the past few years in the research on the military promotion system, and Major, we are delighted to have you here to share that experience with us.

Major FOWKES. Thank you, Mr. Chairman.

Before I begin my remarks, I would like to insert the statement of Rev. Joseph Turner, cochairman of the Chaplains Promotion Research Committee for the record.

Senator NUNN. Without objection, it will be part of the record. Also, the following additional prepared statements were submitted for the hearing record.

[The statements follow:]

PREPARED STATEMENT OF THE REVEREND JOSEPH JAMES TURNER,
COCHAIRMAN OF CHAPLAINS PROMOTION RESEARCH COMMITTEE

We deplore the "up or out" system as it is applied to all officers, but especially to Chaplains. The bill, as we understand it, would, among other things, establish uniform law for the appointment and promotion of regular and reserve officers, set promotion points for officers, eliminate the temporary promotion system, create an all-regular officer corps after the 11th year of service and promotion to Major, and continue to use the up-or-out system.

The non-combatant professionals, e.g. veterinarians, lawyers, chaplains and doctors, are officers who have been educated into the various disciplines of their professions. In order to be proficient in their professions they have had to study long and hard. As members of the Armed Forces they are required to be subject first to military personnel management and then subject to the discipline of their professions.

When chaplains are accepted into the Armed Forces they are ecclesiastically endorsed as clergymen. When they are fired (via RIF or passed-over) they are involuntarily released without regard to their status as clergymen. Unlike medicine and law, the ultimate authority for clergymen rests in God and their church, which can never be subject to subordination to secular and military authority.

There is today, FY 1978 as there has been for some time a critical denominational imbalance in the Chaplain Corps. This imbalance is more pronounced by the shortage of chaplains of the Jewish, Catholic, Eastern Orthodox, and some Protestant Faiths. For instance, according to the statistical denominational breakdown sent to Senator Jacob Javits 25 April 1978 by the Assistant Secretary of Defense John P. White, the Army has only sixty percent of the priests needed to serve its Catholic members, and only two-thirds of the necessary numbers of Rabbis and there is also a severe shortage in several Black Protestant Ministries and so on. Yet, the Army, the Navy, the Air Force have fired hundreds of veteran chaplains in the past ten years because of its so-called "UP OR OUT" promotion policy. You see a chaplain like an officer is dismissed if he is not promoted to a higher rank.

A document which was forwarded to Senator Proxmire from DOD on 26 April 1978 states:

"Issue: The Army retains doctors who are twice non-selected for promotion but releases chaplains who are twice non-selected for promotion.

"Response: The Army does not retain doctors who are twice non-selected for promotion. In 1977 the Army did use a 'Selective retention in grade' category for doctors as a partial solution to severe shortages of medical personnel. The Army is short doctors not chaplains."

This statement is typical double talk and misleading in that selectively retained officers are not forced out and there are serious chaplain shortages by Faiths in the Armed Forces Chaplaincy. As figures from the Chief of Army Chaplains indicate, as of February 24, 1978 there are shortages in twenty-four (24) of sixty-eight (68) represented religious denominations recognized by the Department of the Army. In a letter dated May 19, 1978 to a member of our Research Committee, Richard Lentz, speaking on behalf of Vice-President Mondale, the Chief of Army Chaplains has stated, "The Army is short doctors, not chaplains". In another paragraph the Chief of Army Chaplains has stated

that "If a denomination is not able to provide its share of chaplains needs, the unfilled spaces are filled by other denominations in order to provide ministry to the members of the Army and their dependents", which means that a Catholic priest can minister to a Presbyterian, or a Baptist to a person of the Jewish Faith. Conversely, a Rabbi could also minister to a Presbyterian or a Baptist or to a member of the Catholic faith. Some chaplains may minister to the members of another faith.

The Reverend Gordon Rector, a priest of the Eastern Orthodox Church, was a member of the Army Chaplaincy and has stated that he was dismissed in March, 1977 after seventeen years and eight months of active duty under the "up or out" system. Reverend Rector found himself expected to conduct Protestant worship services (although not forced to do so) and to provide a Protestant "Religious Service" Program in spite of the fact that the Canon Law of the Eastern Orthodox Church forbids him to conduct any service and perform any Rites other than those of his Faith. Reverend Rector was assigned continuously to battalions, none of which had any members of his Faith. He was expected to devote the great majority of his time and efforts to the personnel of those battalions and to the concerns of the battalion commanders.

It is difficult to recount all the stories of chaplains because in the world of callous disregard for the worship of God and for the callous disregard for the faith and the compassion which these men hold for the members of their faith and, in fact, members of all faiths and the ministrations to the dependents as well the callous treatment of these men transcends normal attitudes of understanding.

For your examination we wish to place in the record of Hearings of H.R. 5503 DOPMA the statement of the Reverend Gordon Rector (Washington Post Press Release May 26, 1978 attached).

Archbishop Ireny, the former Metropolitan of the Holy Synod of the Greek Orthodoxy made known his objections to this policy of the Army by various communications to members of the Senate. His statement, I wish also to submit for the record.

Several examples of the problems now in existence include:

(a) The case of Rabbi Henry Oppenheim of the Jewish Faith who reports that for nine months after he was fired on the Up or Out, the nearest civilian Rabbi at Fort Sill, Oklahoma to spiritually care for the Jewish personnel was over 100 miles away. (Letter dated 3/29/78 by Rabbi Oppenheim)

(b) Chaplain Ron W. Westerman, a 17 year Army veteran of the Congregational Church who holds two meritorious service decorations, was fired because he had refused to take a "warfare course" because it was "repugnant and in violation of my conscience and religious vows".

(c) Reverend Joe Carroll, a 14 year Air Force veteran Chaplain from Tulsa, Oklahoma after he was fired on the Up or Out in 1975, re-entered the Service with the blessings of his Bishop, Bernard Ganter, to serve out his career status as a 'priest-sergeant' on active duty.

(d) Reverend Heyward Knight has written this distinguished Sub-Committee to testify on 14 June 1978. His comments on the Up or Out system and how it applies to chaplains is noteworthy: "Recognizing the value of providing religious instruction and the opportunity to worship to members of the armed services and their families, I gave more than 17 years of dedicated service to my country. My Church has NOT withdrawn my denominational endorsement, thus I am still qualified to serve. I am physically fit and competent. I hold two Master's Degrees plus a year of study in Clinical Pastoral Education." (Letter sent to Senator Sam Nunn from Rev. Knight's Augusta, Ga. home 14 June 1978).

(e) Reverend Jerry Vessels wrote to Senator Dewey Bartlett to say he was involuntarily released in March, 1977 with 17½ years of service. Rev. Vessels is from El Paso, Texas. (Letter dated 17 Jan. 1978). Listen well to Rev. Vessels own words: "A priest is a man consecrated to the task of continuing Christ's work among men, obviously it has to be done Christ's way, but one of the negative aspects of a military priest's life which continually frustrates the Christ in him is the rank structure, the control by the non-spiritual over his freedom to love and give himself to those in need of Christ's help."

(f) In speaking for thirty minutes to Archbishop Jim Byrne of the Archdiocese of Dubuque, Iowa, he expressed rather emphatically his personal dismay of the Army's release via Up or Out of his Fr. Thomas in August 1977 from the Advanced School of the Chaplaincy just after receiving his diploma. Archbishop Byrne simply and humbly said to our Committee, "I know Father Tom is a very good priest and I am glad to have him back. But need we go on but to cite one more of the many about a Black Chaplain doubly passed-over when the list of denomina-

tional representation sent to the Pennsylvania Delegation shows a glaring shortage of some 60 to 70 percent among the minority Faiths. Are there chaplains willing to stay at their posts without promotion to provide for the pro-rated spiritual needs of our men in uniform? Has anyone asked? Yet, because of the dire need to keep trained Army Medical Personnel the Army has WAIVED the Up-or-Out clause for doctors, but it has refused to waive the restriction for chaplains, despite the shortages.

DOPMA, if adopted in its present form, will perpetuate the subordination of religion to the military and secular authority by excluding the Endorsing Agencies of the chaplains in procedures in Chapter 36 of DOPMA under the Up or Out system and in Section 640 regarding loss of qualifications.

It is also clear that until the imbalances between the Faiths is redressed, selective retention of chaplains from understrength religions is required; a practice now in use in the Navy. We wholeheartedly agree with the Pennsylvania Delegation petition to President Jimmy Carter on May 18, 1978 and appreciate their sensitive concern for the unmet spiritual needs of thousands of our Servicemen and their families. They state: "The Armed Forces have not addressed themselves to the critical shortages in proportional representation, even though the administrative means to do so exists". And again, their position reads loud and clear with, "With the support of the National Religious Organization, the services have been instructed to maintain a chaplain corps composed of a proportionately represented clergy. However, certain faiths are currently underrepresented." (Letter of 20 Pa. Congressmen including the two Senators to President Carter dated May 18, 1978).

I wish to close by stating that DOPMA should be amended to the effect that the members of the Armed Services shall receive adequate religious and spiritual care and that a Chaplain's Endorsing Agency must be involved in any procedure resulting in involuntary separation from active service.

I wish to submit the attached exhibits for insertion into the record as enclosures to our Committee's statement.

ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF FATHER ATHANASIOS R.G.
RECTOR, PRINCETON, N.J.

The Defense Officer Personnel Management Act (H.R. 5503) has been passed by the House of Representatives and is now being considered by the Military Manpower Subcommittee. I would like to ask that this testimony be entered in the record and be considered in the course of the deliberations regarding this legislation.

DOPMA, as presently written, and the present policy of the Department of Defense, applies the "Up or Out" promotion policy and the OER system to Armed Forces chaplains without any distinction from line officers. There should be a distinction made between these totally different types of officers. The members of the House of Representatives were not cognizant of the problems which this policy is creating in the Armed Forces when they passed this legislation in its present form. The Senate should amend the bill.

A serious denominational imbalance is being created by the "Up or Out" system. DOPMA would fully legalize this system in its present form if it is passed by the Senate and signed by the President. Roman Catholic, Jewish, and Eastern Orthodox chaplains are being dismissed from the Armed Forces under this system and their places are being taken by Protestant ministers newly recruited, who can in no sense minister to the religious needs of the military personnel of these understrength faiths. In current policy in the Army and Air Force, there is no provision for any mitigation of this policy to retain critically needed clergymen of these understrength religious groups when they have been twice "passed over" by promotion boards. The Navy, on the contrary, has mitigated this policy, as described below.

I would like to make the following proposals for consideration by the subcommittee.

(1) The present so-called "procurement goals" for chaplains by faith group in the Armed Services should be converted into actual quotas, which the Armed Services will attempt to maintain.

(2) The Navy policy of convening Continuation Boards to determine whether to retain on active duty on a year to year basis chaplains from faith groups which are under the required quota but who have twice been non-selected for promotion should be made mandatory and uniform throughout the Department of Defense.

Such boards would evaluate such chaplains individually to determine whether they are truly qualified for retention in grade and whether their retention is in the best interests of the needs of the Armed Services. It is certainly not in the interests of the Roman Catholic, Jewish, and Eastern Orthodox personnel of the Armed Services to have the clergymen of these faiths involuntarily released and then replaced by Methodist or Baptist clergymen who, while they can serve as "staff officers and advisers to commanders on matters of morals and morale," cannot in any sense minister to the religious needs of non-Protestant personnel.

(3) A serious effort should be made to reemphasize the fact that chaplains are men of God and also professional men, highly trained, and to place them on a level with physicians and dentists. Specifically, the practice of placing the evaluation of Army chaplains on OER's in the hands of battalion executive officers and commanders, who are so often incapable of making a proper evaluation of such men, should be adjusted significantly. Most Army chaplains, at least are rated by line officers, and line officers sit on chaplains' promotion boards. This is not the case in the Navy, for example, where chaplains have their own promotion boards.

(4) A provision for direct appeal by chaplains who feel that their commanders are interfering in their religious work and are being threatened by adverse OER's should be instituted.

(5) Consideration should be given to removing rank and insignia of rank entirely from chaplains, placing them under Civil Service or some other relationship to the Armed Services other than that of being officers.

(6) Consideration should be given to the proposal that chaplains should not be assigned to Army, Air Force or Navy but should be Armed Forces chaplains who can serve any of the Armed Services as required when there are faith imbalances in these Services. Certain studies have shown that a considerable savings in funds could be achieved, for example, by combining the Chaplain Schools of the three Services into one.

These are just some of the suggestions for making the Chaplaincy more effective than it is now. As long as the OER and the "Up or Out" systems remain as they are now, chaplains will be hard pressed to provide the moral and spiritual leadership which is their clear responsibility.

Thanking you for your attention to this letter, I pray for your thoughtful consideration of these matters.

PREPARED STATEMENT OF MRS. THOMAS PETROSKI, EXECUTIVE SECRETARY OF
THE CHAPLAINS PROMOTION RESEARCH COMMITTEE, HAVERTOWN, PA.

As the mother of two children, I want to address my concern on behalf of the parents of America who had or have sons and daughters serving in the Armed Forces of the United States.

The evidence that there is a serious problem within the Armed Forces Chaplaincy is overwhelming. Our Committee has sensitized innumerable Members of the Congress including the Pennsylvania Delegation. On May 18, 1978, twenty members of this Delegation have written of their grave concern over the Chaplaincy situation. Their letter to President Jimmy Carter does warrant prompt attention as they aptly expressed: "With the support of the National Religious Organization, the services have been instructed to maintain a chaplain corps composed of a proportionately represented clergy. However, certain faiths are currently underrepresented." The statistics sent to our Committee by the Honorable Jacob Javits on April 25, 1978 glaringly give evidence to this questionable underrepresentation. There is no way to disprove that the Up or Out System had and continues to have contributed to this Faith Imbalance.

For the Army to say this problem is "minimal" is to beg the question. Unfortunately, the Privacy Act prevented the Honorable Jesse Helms from obtaining the names of all "fired clergymen via RIF or Passed-over in the past eight years". Yet, our Committee has on file enough names of involuntary released clergymen from underrepresented denominations. A strong case in point was the letter read into the H.R. 5503 Hearings on June 27, 1978 by the Honorable Sam Nunn concerning a fired chaplain with "two master degrees". This chaplain stated in his letter, "I gave more than 17 years of dedicated service to my country. My church has not withdrawn my denominational endorsement, thus I am still qualified to serve. I am physically fit and competent. I hold two master degrees plus a year of study in Clinical Pastoral Education." (Copy of letter from Rev. H. Knight, June 14, 1978 to Senator S. Nunn).

As a parent I myself would feel proud to know that this qualified minister was on deck to be near our GI Joes with drug problems, homesickness problems, dear

John letters problems and so forth. As a parent I cannot believe this situation has not been brought to the attention of our Congress. I urge you to ask Congressmen Henry Reuss, and Richard Schulze and Joe Ammerman, and Senators Nunn, Bartlett, Javits, Thurmond, Stennis, Helms, Culver, Proxmire, McGovern, and scores of other Congressmen to present their files on the military chaplaincy situation in order to legislate and establish a special Congressional Commission to oversee and staff study the policies and personnel human ordained resources and the firings of the Armed Forces Chaplaincies. It may be time to standardize the three Chaplaincy Services into an Armed Forces Chaplaincy to perhaps economize and even better monitor the happenings and the policies within the Corps.

As a mother and a parent, I pray and wonder whether there ever would be another international conflict where our sons and daughters will be drafted again to go off to fight for their country's defense. While we are at peace and the Vietnam conflict is behind us, our Defense posture obviously must remain strong. Yet, how in the world can the documented evidence filling the files of scores of our Congressmen offices and those of the Senators with the senseless firings of hundreds of clergymen justify the trust and the professionalism placed in the military authorities by the Congress and the Churches of America.

It deserves repeating the comment of Rabbi Henry Oppenheim to our Committee on March 29, 1978: "I feel no Catholic, Protestant or Jewish Chaplain should be involuntarily released, especially if he is still endorsed by his denomination, as long as his denomination faces shortages." (cy incl) With the Army's shortages of twelve of the thirty-six FY 1978-79 procurement goals for Jewish Chaplains, what sense was his separation on the Up or Out System. Just how many of our Army posts are without a military Jewish Chaplain to service their peoples and families. Yet, the Army maintains a "retention in grade" for doctor shortages.

Within the statistical facts sent to the Honorable Jacob Javits is the "back door" policy of the Navy Chaplaincy via "continuation boards for twice passed-over officers and chaplains for the good of the service". No such policy exists for the Army Chaplaincy. As a parent I could rightly wonder for the spiritual well-being of our sailors, soldiers, marines, airmen if FAITH BALANCE is more important than GRADE BALANCE. Why is the Navy policy more humane for the unmet spiritual needs of our Servicemen than the Army's insistence on "grade balance." Are Chaplains "hired as ministers, priests, rabbis and then fired as soldiers" with this unbending rigidity to safeguard a senseless Up or Out System.

In conclusion, I wish to thank the Subcommittee for honoring my request to submit this statement for the record. I simply, in closing, recommend these few options for the entire Senate to consider before voting on the DOPMA Bill:

1. The establishment of a Congressional Commission to staff study and obtain a comprehensive analysis of the human ordained resources, policies, management, hirings and elimination practices within the three Chaplaincy Branches.
2. The legislation of a show cause process to the Congress and the Chaplain's Endorsing Agency before separation for any reason.
- 2 (a) Review questions and answers in Hearings on S. 2571 on Appropriations for Clergy.
3. The re-call of all separated clergymen involuntarily separated to see if the good of the Service and proportionately represented denominational balance warrants this, since the Vietnam War.
4. The standardization and unification of an Armed Forces Chaplaincy.

PREPARED STATEMENT OF HEYWARD P. KNIGHT, PASTOR, PINE GROVE
BAPTIST CHURCH, THOMSON, GA.

In July 1977, I was officially notified of my second passover for promotion to lieutenant colonel. I was given 90 days to leave the Army after more than 17 years of dedicated service. I had become another victim of the "up-or-out" system. The irony of it is that I had already been selected for promotion to LTC in the AUSA, but was "not good enough" to merit promotion in the USAR.

Is the "up-or-out" system not discrimination? No other employee in local, state or federal government is forced to attain promotion in order to survive within the system. For example, a GS-9 employee can remain in that grade until death or retirement, whichever comes first. But he or she is never fired because they did not make GS-10. Why should the military be discriminated against when the pyramid becomes increasingly smaller towards the top and it is impossible for everyone to be promoted?

It is against common sense, practicality and sound economics, not to mention a lack of sensitivity, to fire chaplains who are more than qualified to serve because of their expertise, education, training and moral and spiritual motivation. It makes even less sense when these chaplains are still endorsed by their church and the Army fails to consult, advise, inform or otherwise contact these denominational endorsing agencies.

Consider my case. How can the Army possibly go back to my endorsing agency and, in effect, say: "We have just fired one of your chaplains. He had two masters degrees and a year of specialized training for which he was hand-picked by the Office of the Chief of Chaplains. He had performed his duties in an outstanding manner and his officer efficiency reports reflect his dedication to duty. Since he had completed only 17 years of service and was not promoted, we fired him. Can you give us another minister to replace him?" And, yet, this is exactly what has taken place.

Is it not also discrimination for the Army to single out doctors to be exempted from the "up-or-out" system? Is the chaplain less professional than the physician? Is the chaplain needed any less than the doctor?

The final crunch comes with the news that a House subcommittee is proposing a one-year moratorium on twice passed over officers being released from active duty. This action last year would have put me over the 18-year mark, thus saving my Army career and assuring me of retirement. How many times can the Army change the rules while the ball game is still in progress? At one time the system was composed of three categories: "Qualified and selected for promotion," "Qualified but not selected," and "Not Qualified." Only the latter constituted a passover. This enabled many good and highly qualified officers to be retained in their present grade and they continued to serve effectively.

Because of the gross miscarriage of justice which has been imposed upon many of us, and because of the traumatic effect it has caused us and our families, it is my gut-level feeling that the "up-or-out" system should be completely eliminated and the system mentioned above should be restored. I also feel that any enlisted man or officer, and especially chaplains, who had completed 15 or more years of honorable service should be recalled to active duty immediately, or should be entitled to a retirement program immediately, based on the number of years served. It will not correct the injustice simply by doing away with the present system. Retribution needs to be made to compensate for the traumatic suffering inflicted upon those who were "fired without just cause."

If members of Congress are sensitive to the needs of their military constituents, they will move to correct the injustices caused by this damnable "up-or-out" system. To fire a chaplain without showing just cause and without allowing his endorsing agency to concur shows an utter disrespect for one of the basic premises upon which our great nation was founded, freedom of religion.

Thank you for allowing me this opportunity to be heard.

PREPARED STATEMENT OF REV. JELDO SCHIAVONE, OUR LADY OF LOURDES,
DENVER, COLO.

During the Vietnamese War when I became aware that catholic chaplains were urgently needed I went through a lot of red tape to have my bishop allow me to join the chaplain corps. I didn't mind because both my brothers served in the Army and I felt I owed my country something. After serving a stateside tour, Korea, and another stateside tour I wanted really to get to Vietnam so I volunteered and was accepted. They sent me to Cam Ranh Bay and Qui Nyon and while there I was awarded by the U.S. Army for Heroism. I was called to the scene of a drunken, frustrated Puerto Rican soldier who was shooting up the place with an M-16, which you know is like a machine gun. They had previously called the catholic duty chaplain but since he knew no Spanish, he was ineffective. They then called the Protestant Duty Chaplain, a Major Tupy who is presently working in the Chief of Chaplains office. He was a younger man than I and certainly had more leadership potential than I but since he knew no Spanish he, too, as promising as he was, proved ineffective to the Provost Marshall. After two hours of searching for me the Military Police escorted me to the scene and in twenty minutes I had that drunken, frustrated Puerto Rican's rifle. I was then 46 years old.

After spending three years at Fitzsimons Army Medical Center in Denver the Army selected me for Reduction in Forces. My bishop had not withdrawn my endorsement, there was still a need for catholic chaplains, I had never done anything to be ashamed of as a chaplain, and still they booted me out. The senior catholic

chaplain in the Army at the time was CH (Col) Emil Kapusta and in a visit to Denver I approached him and asked him if there was any way I could stay in the Army since there was still a need. He said to me, "Jeldo, someone has sold the Army on the theory that younger officers with young ideas can do a more effective job than older, experienced officers. I don't think you can fight it".

It grieves me to read General Smith's statement on p. 3160 of the March 21, 22 and April 4 and 6, 1978, Armed Services Hearing. He said that "the current shortage of chaplains in some denominations is not due to promotion policy but from the overall shortage of clergy persons in these denominations." Well there is no shortage of experienced chaplains like myself to fill in a serious gap of 166 catholic chaplains short! Who is responsible for filling our slots with other denominational chaplains? Why is the Army shortchanging its fighting men?

General Davis in the same session considers the role of a chaplain just as important as that of a doctor. My commanders in Vietnam told me the same thing. They told us that "the men who give the commanders the least trouble are the church going personnel. The men who are not church goers gave all the headaches!" (Briefing Sept. 1971 Cam Ranh Bay.) Yet while chaplains who are passed over for promotion are booted out of the Army, doctors who are passed over for promotion are retained because of a shortage. Well, there is a shortage of catholic chaplains in the Army and some one has used a double standard in order to riff me. I find this unjust and openly offensive. I risked my life for my country and deserve better treatment than that.

My recommendations for a fair and equitable policy of hiring and firing chaplains is as follows.

1. The "up or out" system is really inappropriate for chaplains because our work is not technical but ministerial.

2. Don't boot out a chaplain just for age when there is a shortage in his denomination. If his denomination still endorses him, the Army should, too. Some denominations are overrepresented in the Army as for example 24 from the American Baptist Churches, 13 from the Disciples of Christ, 23 from the Lutheran Church, 29 from the United Methodists and 18 from the United Presbyterian church in the U.S.A. Where is the justice in this. It's very sneaky.

3. The Army can learn from the Navy to put chaplains on Chaplain Promotion Boards. Admiral Watkins in the March-April Armed Services Hearings stated that "all Navy Chaplain Corps promotion selection boards consist only of chaplains" p. 3159 March 21, 22; April 4, 6, 1978. A chaplain should be rated by chaplains.

4. Closely monitor those instances where the Dept. of the Army is firing essentially needed chaplains and then turning around and hiring a civilian chaplain and paying him more money than they did the Army chaplain. My case is a good example. What an injustice to the taxpayers!

5. The young chaplain with his young ideas might be a better man behind a desk but his performance is the real test. In my case in Vietnam the young, promising chaplain remained hidden behind a jeep while the older, more experienced and wiser chaplain assisted the Army in their mission. This is because he had spent eight months of his life studying Spanish whereas the younger chaplain didn't put that time aside because he was not looking to the future. I started to study Spanish before going to Vietnam because I realized we had Puerto Rican companies in basic training. This overview only comes to a more experienced chaplain.

I still love my country and would be most happy to return to the Armed Forces. I find it difficult to understand why the country I served so well has treated me so unjustly in rifting me.

Thank you for your attention in this matter.

PREPARED STATEMENT OF REV. RICHARD G. HEMBROCK, CHAPLAIN FOR THE NATIONAL LUTHERAN HOME FOR THE AGED, WASHINGTON, D.C.

I submit the following testimony on the above subject:

1. I oppose a system that is being set up to practice unfair firing practices (riff through lack of promotion) and using the myth of age as the criteria for relating to military personnel. Discrimination due to age in rank will be a factor if DOPMA is enacted.

2. As a Lutheran clergyman, I find it hard to believe that our Church will support a system that would waste and misuse human resources. At present I am

bringing this to the attention of the American Lutheran Church and the Lutheran Church in America.

3. I address the present imbalance within the active Chaplain Corps and find that the imbalance being shown on the books is due directly with the "up or out" system now being practiced. There is no way that a balance can be kept with the present "up or out" system. It is set up for business, not the ministry in the military. Yet I see the Army bending over backwards to let doctors stay in service after two passovers. Why not chaplains? They do as much in most cases.

4. The Army rifted me right after they invested thousands of dollars in training me as a hospital chaplain and as a counselor of people. There were two other men in my class at Walter Reed Medical Center who were rifted right after I was. All trained for what? They, the Army, hardly got their moneys worth. I see this "up or out" system as a flagrant waste of our tax dollars, and professional ability.

5. And I question the myth that a younger chaplain coming in at the other end of the system as "new" can match the training and/or experience and ability of a man who has had over ten years of working and sweating with military troops.

PREPARED STATEMENT OF JOHN WASYLIK, NATIONAL COMMANDER IN CHIEF,
VETERANS OF FOREIGN WARS

Mr. Chairman: There is one unique aspect to the Defense Officer Personnel Management Act (DOPMA), as passed by the House of Representatives in H.R. 5503, that I desire to bring to the attention of the Subcommittee on Manpower and Personnel.

Currently, the divisive and controversial "up or out" promotion policy for chaplains in the Armed Forces has created a situation wherein denominational balance among the various faiths in the chaplaincy is being badly under-cut.

The Army alone is short of a balanced denominational structure by some 280 chaplains; the figure for the Navy is 200, while the Air Force falls short by 70 chaplains.

The Roman Catholic faith is under-represented by some 270 chaplains in the three (3) services. Twenty-four of sixty-eight important faiths are short in varying degrees in all the services.

Clearly, the right of access to one's chosen religion takes on a special significance for uniformed service personnel.

I strongly urge that a retention in grade option; i.e., no "up or out" be afforded the Corps of Chaplains in the same manner as is set forth for military doctors to the end that we build up again to a desired level of denominational balance.

Please include this letter in the record of your consideration of H.R. 5503 and be kind enough to advise me of the Subcommittee's action.

STATEMENT OF MAJ. GORDON FOWKES, USAR, NATIONAL COUNCILMAN, DEPARTMENT OF EUROPE, RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Major FOWKES. Sir, before I begin my statement, I would also like to make it absolutely clear that I concur with the statement of the executive director of the Reserve Officers Association, General Roberts, concerning my role here in that I am representing my own views here. I am, however, an elected officer of the Department of Europe, ROA, and I believe I have the support of the Department in this matter.

Mr. Chairman, General, gentlemen of the Senate Armed Services Committee, I am Maj. Gordon S. Fowkes, U.S. Army Reserves, the National Councilman for the Department of Europe, Reserve Officers Association of the United States. The Department of Europe consists largely of members of all services and all components thereof, Regular, Reserve, and Retired. Its membership is part of or linked to the largest deployed combat force of the United States and is in tune with the feelings of the field forces. We appreciate the opportunity to express

to you our concern, indeed alarm, over selected portions of H.R. 5503, DOPMA.

We find agreement with certain portions of the bill. Those portions can be passed separately and are not absolutely inextricable from those portions we object to. We find the grade structure recommended for the Air Force is urgently needed and should be passed immediately. We agree with the need to reduce unnecessary inequities of treatment regarding Reserves on extended active duty and of women. The concept of a single type of commission for officers on active duty is a desirable concept. The Navy is desirous of certain changes in its law, and our naval members are quite happy with those proposed changes.

Aside from those concepts and features just noted, it seems to me that DOPMA is a solution looking for a problem to solve, presenting problems that do not exist, invalid assumptions and weaknesses as strengths.

DOPMA has been presented to you as needed to provide officers in grades at ages conducive to effective performance which will meet the alleged persistent need for a young and vigorous officer corps. This philosophy equates youth with effective performance and ignores the value of experience. It suggests that there is a direct correlation between innovation and chronological age. An ROA National resolution passed in 1976 rejects such a notion. I note that our most senior members have the sharpest minds plus the perspective of years of experience which we find of enormous value. The Defense Manpower Commission clearly identified the need for older, more experienced officers in the fields of logistics, administration and training, leaving the younger officers to lead the troops in battle.

Curiously, DOPMA does not alter the age and grade distribution presently in effect nor do its proponents present evidence of a chronic problem of superannuated officers. Additionally, DOPMA places virtually unlimited attrition of officers in their second decade of service and a floor on attrition on officers in their third decade of service. This is a substantial internal contradiction.

Another major feature of the bill that concerns us is the notion the career force is a closed system with limited lateral entry. This notion flies in the face of historical evidence of the excellence of the Reserve component and temporary officers in combat.

Indeed, those of us who are weekend warriors believe that we are superior, based on our track record—if the committee will pardon a bit of pure chauvinism. The policy of in-house promotion is also found in most large corporations but as a motivational and morale device, not absolutely required for qualitative management of the managerial force.

DOPMA also purports to present uniform law regarding career opportunity, appointment, promotion, and elimination, but retains many fundamental differences between the Navy on one hand and the Army and Air Force on the other. These differences may be justified, but it is misleading to state that uniformity is a virtue of this bill.

It is alleged that, without DOPMA, selected mobilized Reserve units will have to leave their most senior officers behind due to OGLA limitations. This ignores the existence of the individual ready Reserve and the slots for senior officers reserved for them as augmentations or replacements.

Despite the lack of a firm connection between problems that need to be solved, and a philosophy consistent with those needs translated into workable provisions of the law, we should examine the DOPMA solution to see what problems it might incidentally address or create. In this regard, our concern is focused on two major areas: The exclusion of mobilized Reserve officers from the active list, and the perfidious up or out system as stated in the bill.

Promotion timing and opportunity under DOPMA are based upon a comparison of the numbers of vacancies plus projected losses against the numbers of officers most senior in each grade and available for promotion. It is important to note that the vacancy pool and the numbers of officers in each year group of each component of each service differ.

During peace, the vacancy pools are separate as are the conditions of service. In war, however, the vacancy pools become intermingled and the link between a given component is lost except through arbitrary division of the combined vacancy pool. Given the distribution of numbers in each year group, either the promotion timing and opportunity will be different for officers of different components of the same service performing side by side, or grade imbalances will occur to make the promotion timing an opportunity alike.

While the up or out system has been around for some time, there are several different versions of the system with or without selective retention features. DOPMA freezes into statute procedures which are largely now authorized under administrative law. Both the Army and the Navy use selective retention for certain categories of critically short specialists, that is, Army doctors and Navy chaplains.

The up or out system, per se, is a terribly expensive elimination device and causes an inordinate waste of available manpower. Due to the required waiting period between promotion flow points, the up or out system tends to retard the brilliant and highly competent officer and props up the incompetent, and then throws fully qualified and badly needed officers out of the service due to a limitation of vacancies in the next higher grade.

The operation of the two pass over system takes at least 1½ to 2 years to operate and when it finally does eliminate an officer who should be eliminated, the service has had to put up with his ineptitude for years and the officer finds himself difficult to market in the civilian world. Neither the service or the individual benefits from such retention between promotion considerations. We have learned that less than 5 years of military duty to be an asset on the civilian market, while more than 10 years is a definite albatross. This latter characteristic is due to the commonly held perception of over 70 percent of U.S. civilian firms that military experience is unrelated to their own civilian businesses. Most military retirees and other career transfers after 10 years of service find normally a 30-percent cut in pay requiring up to 5 years to return to their former level of compensation.

In spite of the intent of the House Armed Services Committee that nonselection for promotion shall have no adverse stigma associated with it, we have found official policies which restrict passed over officers from full participation in the Reserve components despite decades of experience as to the value of these officers to the Reserve components. The bar to reenlistment of passed over officers is particularly galling to those with a 17½-year investment of active service.

The psychological effects on the officer and his family have destroyed many marriages, and have not only resulted in the suicide of some officers but family members including children.

Few will deny the basic premise that senior management has the right to define the qualifications for promotion. But linking those requirements to a system where nonselection equates to elimination obviates the need for management to justify firing a fully qualified officer for cause.

Related to the question of qualifications is the assumption that there must be a base line common standard of excellence in a very general way. The experience of the last 5 years, however, has presented us with travesties such as officers being simultaneously selected for both promotion and reduction in force, for early attendance at advanced schooling and nonselection for promotion, and such oddities as demonstrated by the recent RELOOK boards which typically have promoted an additional 10 percent given the same records, instructions and number of vacancies as the earlier illegal boards. The credibility of the Army's promotion system has been damaged to a large degree by such actions.

The promotion system now in use is based upon a generalist concept of officer development. Recent experience in the Army, however, has demonstrated that the needs for specialization within the officer corps as represented by the officer personnel management system (OPMS) is being thrown out of balance every time there is a promotion board. This is being corrected at present by the Army by providing quotas and guidance to the promotion boards regarding selected specialties. Such guidance will be illegal under DOPMA; we therefore conclude that OPMS and the up and out system are incompatible without a selective retention system.

In the event of a reduction of the size of the career force, or a required trimming of senior officer grades incident to demobilization, the only device to accomplish this in DOPMA is the up and out system. There are no provisions for a reduction in force (RIF) or reduction in grade (RIG). When such a reduction is required, DOPMA will produce serious imbalances between year groups as all the attrition must be concentrated in those year groups subject to promotion consideration. It is therefore recommended that provisions for both RIF and RIG be added to DOPMA.

Other deficiencies in the bill are not necessarily linked to the up or out system. If DOPMA is adopted, we believe that extended active duty reservists are in fact full fledged career officers and that their integration into the Regular service should be automatic, not selective. We also believe that involuntary separation for reasons other than cause should not prevent subsequent enlistment or appointment in any other component or service if otherwise qualified (including reappointment in his original service).

Our attention has been drawn of late to the question of the role of the chaplaincy in the Armed Forces and the serious shortages of chaplains in certain religious denominations. I believe that it is a de facto violation of the intent of the first amendment of the Constitution regarding the establishment of religion to exclude participation and concurrence of the chaplain's own endorsing agency. We can have military law, military medicine, but not military religion.

In terms of positive recommendations for improvement of DOPMA or present law, in addition to those mentioned already, I suggest the following options:

1. The conduct of any involuntary elimination procedure involve a "show cause" procedure giving the individual the right to rebut and appeal.

2. Either selective retention be widely used or that the promotion system and the elimination systems be divorced.

3. All original commissions be limited to duration with selective integration into the regular career force occurring between the fifth and eighth years of service.

4. The strength of the officer corps and the competitive categories thereof be authorized annually by Congress.

In closing, I wish to stress the point that the ferocious attrition contained in DOPMA for officers in their second decade of the service is conducive to the degradation of the moral courage and personal integrity of the officer corps as the fear of career destruction by an uninflated efficiency report places pressure on the officer to please his rating officer rather than focus on the mission of his unit and the welfare of his men.

Sir, I would also like to introduce into the record the statement of Prof. Stanley Hyman, a retired Air Force lieutenant colonel and a professor at Catholic University of America. His statement indicates in substantial detail the psychological dynamics of the trauma of career transition regardless of the type of transition, voluntary or involuntary.

Senator NUNN. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF PROFESSOR STANLEY HYMAN (Lt. Col. USAF-RET.),
A PROFESSOR AT CATHOLIC UNIVERSITY OF AMERICA

There is a popular presumption that men and women in the military would react as civilians would when faced with the sudden loss of their jobs. The presumption is false. By and large, the military officer has a different personality profile than his civilian counterpart and therefore reacts differently to the trauma of an unexpected and unwelcome career dislocation.

Historically, the military has sought and hired individuals whose personalities respond positively to maximum job and financial security, group efforts, standardization of thought and bureaucratic procedures and conservatism in work performance. Each industry has a profile which typifies the subconscious need gratification requirements for its respective population. These traits in the military are normally opposed to those that private industry looks for in filling managerial positions in the dynamic world of profit and loss.

It is not my intention or desire to pass a value judgement on these personality differences; rather, it is to state that these traits are found in a majority of those in the Armed Forces. To continue programs of heavy forced attrition, even with the "cushion" of a deferred retirement plan, is catastrophic for both the government and the individual.

The newly commissioned military officer recruited to replace those who have been forced out normally has a personality much closer to the civilian world prototype. This results in personality conflicts between junior and senior officers. The cohesion, efficiency and morale of the military suffers as a consequence.

For the individual forced out, the change is especially traumatic. They have been conditioned over the years by their employer—who also happens to be their government—into believing that, barring gross negligence or misbehavior, they had a job for a specific period of time.

Even for the mature and well adjusted, the shock of being fired is almost overwhelming. During the past ten years, I have conducted management workshops for government managers where the conflict between senior and junior

managers always surfaced. I have also worked with and lectured to thousands of those caught in "RIF" programs at CIA, NASA, the military, and other agencies, and have intimate knowledge of the dramatic emotional changes they experienced.

The recent "RIFs" in government have amply and sometimes tragically demonstrated the impact of the aforementioned personality profile differences. The Defense Department's Project Transition and Referral wasted millions of taxpayer dollars because the program's concept ignored the emotional changes that individuals undergo before they could effectively move into the civilian sector. The program did not seem to recognize the differences between the civilian and military worlds. In a highly structured environment such as the military provides, for example, an individual who is confronting marital or other personal problems is tolerated, supported, and carried along by the system. Quite the contrary is true in private industry, where individuals who allow outside difficulties to reduce their productivity are usually dismissed.

Imagine, then, how individuals who have been carefully screened in and protected throughout their careers would react if, without adequate preparation, they abruptly found themselves victims of an Up or Out, or RIF program. They would suddenly be forced to deal with an unknown, unstructured work environment. Even the vocabulary is different making it difficult to translate previous relevant experience so that it could be applied to the new setting. They would discover that the game is played by new—and often rough—ground rules. In short, they would be no match for their successful civilian counterparts, who have always accepted as a challenge the reality that they could be fired at any given time, and not always for legitimate reasons. These civilians are more aggressive, independent, and can live at a higher risk threshold. Each profession becomes conditioned to the dynamics of the work environment to which they gravitated.

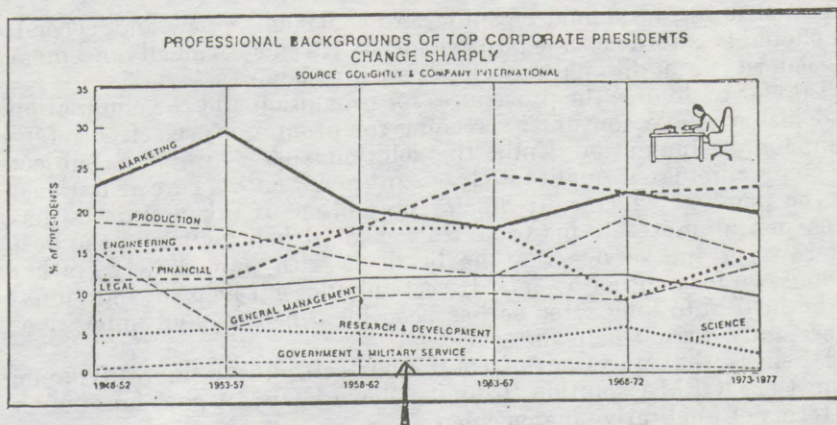
Moreover, the military people are not ready for the almost overt hostility they are likely to run into in the civilian population. It is a hostility generated by an overcrowded employment marketplace and the media's frequently negative portrayal of government employees, "double dippers" and the military in general. Not surprisingly, many ex-officers find it extremely difficult to land jobs in other than defense or government related industries.

During the years of my research into the emotional effects of forced career transition I encountered thousands of individuals who were rendered anxious, depressed and distraught by such events as promotion passovers, RIF's, and forced early retirement. For the first time they entertained thoughts of taking their lives, breaking up their marriages, or simply running away. Tragically, in too many cases the thoughts were carried out. The multi-million dollar career counseling industry has burgeoned in the past ten years because it recognizes the anxieties of these people and capitalize on it by alluding to the promise that the counseling industry has the magic solution to find new employment; in most cases, the outcome is nothing more than a cancelled check for emotional hand holding.

Thus it should be apparent that forced attrition produces untold suffering for thousands of individuals. In theory, the Up or Out system leads to a more efficient and less costly military, but the human wreckage left in it's wake demands millions of tax dollars to pay for the medical expenses of the emotionally damaged former servicemen and their families, for unemployment and other programs during the transition period.

A far more sensible way to approach the problem would be to accompany any involuntary separation program such as the RIF, or UP or Out system, with a counseling program designed to prepare the affected individuals for the trauma they are about to face. This counseling should be complementary to counseling for passed-over officers directed by the House Armed Services Committee in House Report 95-566 Part 1 on DOPMA. The course that I teach meets these needs but it can only reach a limited number of those who need it most; few of these people are forced off of active duty in the National Capitol Region where the course is taught.

In closing, I want to say that despite the severe trauma encountered by the military person leaving the service due to involuntary separation, they are good people. They are highly competent and their skills are needed in the civilian workforce. I would also like to say that even those who complete a successful military career suffer the same trauma and for the same reasons. All that they both need is some internal pre-preparation to help them make this transition.



Senator NUNN. One of the last points you made was about Congress annually authorizing the strength of the officer corps, what is your reason for this?

Major FOWKES. The present version of the bill changes current law by cutting the President of the United States out of the process of determining the strength of the officer corps. We believe in the basic premise that Congress has the right to raise armies. I believe that you will have more effective congressional control if Congress decides how many officers are required.

Annual authorization of the competitive categories provides both Congress and the service secretaries flexibility to meet the changing dynamics of technology in terms of specialization versus generalization.

Senator NUNN. You recommended that all original commissions would be limited in duration. Would you end the practice of giving regular commissions to Academy graduates?

Major FOWKES. Yes, sir, I would.

Senator NUNN. And have everybody compete alike up until about the sixth year?

Major FOWKES. Yes sir, I would. I recommend somewhere between the 5th and the 8th year. This is not a slam at the academies, at all. They simply don't need the provisions of the law to prop up their excellence any more than Harvard or Yale. They can stand on their own two feet and they always have. No one should receive a commission of an indefinite nature; everyone should compete for integration into the career force based on field performance.

Senator NUNN. If the Academy indeed is producing a superior education it seems to me they could stand on their own two feet without any problem.

Major FOWKES. Yes, sir

Senator NUNN. That is your view?

Major FOWKES. Yes, sir.

Senator NUNN. What would you say to the argument that selective retention would mean lowering the quality of the officer corps?

Major FOWKES. If there was no other provision to provide for forced attrition, stagnation could occur. To prevent this you must also have some way of motivating the nonpromoted officer being

retained. First, he should be subject to continual review and, second, he should be afforded some positive incentives such as an advancement in seniority or additional pay raises, such as bonuses.

I prefer to divorce the procedures for promotion and the elimination and instead have continual screening for promotion, selective retention, and/or elimination. Under this solution a person would be subject to being eliminated qualitatively at any point in his career, not just at the point at which he is up for promotion. If a captain who has been just promoted to major starts to slide, I believe it is in the best interests of the service that he be dealt with immediately, rather than go on for another 5 years. It certainly doesn't help the individual to be held onto long after he has been identified as noncompetitive; it certainly doesn't help the services.

I believe that a system of continuous screening is more dynamic than the DOPMA solution. I don't believe DOPMA goes far enough in terms of qualitative management.

Senator NUNN. One of the reasons given for excluding mobilized reserves from DOPMA grade tables is that if certain unknown units are mobilized, the grade table may not accommodate these units.

I would assume from your testimony you disagree with this reason?

Major FOWKES. I disagree with it simply because DOPMA does not consider the purpose of those slots contained in the Individual Ready Reserve which are to replace losses. I would like to point out an example: In the landing at D-Day in Normandy the average line company was doubled in strength to take care of replacing casualties. To meet the needs of the total force, it's going to be necessary to load in more officers than TDE and TDA unit slots require, simply to take care of casualties. General Summerall, a former Chief of Staff of the Army during the twenties, stated that the Government should provide for 100 percent replacement of its field force within the first 180 days. That was based on the high casualty rate of the First World War.

Another view of why I don't believe the problems attributed to OGLA limitations exists is that I don't believe it is very likely, politically, that a National Guard Division commander is going to be left behind.

Senator NUNN. I would agree with that.

Thank you very much, Major Fowkes. We appreciate your testimony and as we work our way through this legislative process, if you have any other comments we would like to have them.

Major FOWKES. Thank you very much.

Senator NUNN. A prepared statement by the Naval Reserve Association and a report by the Library of Congress will be inserted into the record without objection.

PREPARED STATEMENT OF CAPT. FRED D. CARL, U.S. NAVAL RESERVE (RET.),
PRESIDENT OF THE NAVAL RESERVE ASSOCIATION

The Naval Reserve Association (NRA) is pleased to have the opportunity to present a statement to the Subcommittee regarding its position on the Department of Defense legislative proposal, the Defense Officer Personnel Management Act, introduced in the House as H.R. 5503.

The NRA is deeply committed to the maintenance of a strong national defense and shares the Committee's concerns regarding an effective and viable officer corps to provide military leadership in time of war or a national emergency. The provisions of DOPMA, we feel, will provide the number and quality of officers to meet any contingency and still provide a balanced peacetime force, combat ready and highly motivated to perform in the national interest. In addition to re-

viewing the DOPMA provisions as they apply to the active force, we reviewed the impact of H.R. 5503 on the Reserve Components, particularly, the Naval Reserve.

Some of the key features of the bill that the NRA finds as a great improvement in management of reserve officers are related to the management of mobilized reserve officers. Under current law, a Naval Reserve Officer would be put on the lineal list when he or she is mobilized. This action normally is of little consequence to the officer unless he becomes eligible for promotion selection while on active duty. If, however, he becomes eligible for selection and a selection board is convened while he is on active duty, the mobilized reservist stands an almost certain chance of failing selection to the next higher grade. This is particularly true in the higher grades. The reason is quite clear, and understandable—the mobilized reservist will have his service record, which may contain many years of non-active duty time, compared to regular officers with continuous active duty and more varied schools and organizational assignments. On a best qualified basis, this puts the mobilized reserve officer at a decided disadvantage. Under DOPMA, these officers would be considered at the same time as regulars; however, they would compete with other inactive duty officers under boards convened under Reserve statutes. This feature provides an equity not previously available for those who are prepared and do respond in times of national crisis.

The NRA supports the grade authorization for grades O-4 through O-6 provided by H.R. 5503. We feel the authorizations are adequate to meet Service requirements and to provide a reasonable promotion flow and promotion opportunity that will maintain and attract a quality officer corps. The NRA is especially interested in grade authorizations because the running-mate principle, which drives the Naval Reserve promotion system, sets the promotion timing and opportunity for Naval Reserve officers. If changes are made in the active Navy grade authorizations that would change promotion timing and/or opportunity, like changes will be applied to the Naval Reserve. The Marine Corps Reserve is also driven by a running-mate principle and changes to the active Marine Corps officer authorizations would have a similar effect on the Marine Corps Reserve. The recruiting and retention of young, highly qualified officers for the Naval Reserve is becoming more difficult all the time and we would not like to see changes in the present Navy promotion and retention system (other than those presently proposed in DOPMA) which might exacerbate the present officer flow pattern.

Resolution No. 4-76 adopted 22 October 1976 by the NRA at the 23rd annual conference at Philadelphia, Pa., reads as follows:

DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Whereas the ability of the United States of America to defend itself in wartime and to maintain the peace is vested in a strong and vigorous officer corps; and

Whereas the management of the officer corps of the military services is based upon legislation enacted by the Congress of the United States,

Whereas the statutes affecting the management of the officer corps of the military services on active duty has not undergone a major revision since 1947, and

Whereas the global commitments and responsibilities of the United States since 1947 have dictated the maintenance of a larger active duty force than envisioned or provided in the existing law, and

Whereas execution of these commitments depend upon a fully qualified National Guard and Reserve Officer Corps both on and off of active duty, and

Whereas the Department of Defense has submitted to Congress legislation entitled the "Defense Officer Personnel Management Act" (DOPMA) that provides recognition of the true role of the Reserve Officer in the total force and more flexibility in the use of Guard and Reserve officers without career prejudice during periods of active duty service: Now, therefore, be it

Resolved, That the Naval Reserve Association strongly supports the efforts of the Department of Defense in securing the enactment of the Defense Officer Personnel Management Act.

Mr. Chairman, thank you for allowing the Naval Reserve Association to present testimony on the proposed DOPMA legislation.

[Library of Congress report follows:]

A DESCRIPTIVE ANALYSIS OF THE MAJOR PROVISIONS OF THE PROPOSED DEFENSE OFFICER PERSONNEL MANAGEMENT ACT (DOPMA) COMPARED TO EXISTING LAW

(By Paul Zinsmeister, Specialist in National Defense, Foreign Affairs and National Defense Division, Library of Congress, Congressional Research Service)

PREFACE

The Defense Department has proposed legislation which would revise extensively the existing laws which govern the management of officers serving on active duty in the Army, Navy, Air Force and Marine Corps. The proposal is formally titled the *Defense Officer Personnel Management Act*. More familiarly, it is known by its acronym, DOPMA.

DOPMA was introduced originally in the 93rd Congress and has passed the House twice—once in the 94th Congress and, most recently, in the 95th Congress. The Subcommittee on Manpower and Personnel of the Senate Armed Services Committee conducted intensive review of the proposal in 1976 through hearings and analyses prepared by private consultants, the Congressional Research Service and the Congressional Budget Office. The subcommittee has expressed reservations about several of DOPMA's provisions and, consequently, has not completed action on the measure.

The purpose of this report is to provide a descriptive analysis of the major provisions of DOPMA in its current version—H.R. 5503, 95th Congress—compared to existing law. The report is divided into three parts as follows:

1. Part I includes definitions of certain terms plus a brief discussion of background events concerning DOPMA.
2. Part II contains a reproduction of an October 27, 1977 issue of a Defense Department publication, *Commanders Digest*, explaining the major features of DOPMA for the edification of officers in the field.
3. Part III is intended to provide a more in-depth analysis of DOPMA's most salient features compared to existing law. This part was written by the author based on his extensive knowledge of the proposed legislation and existing law. The discussion in this part is not intended as an adversary point of view to the Department's explanations. Rather, this part in combination with the Department's explanations is intended to give the interested reader a balanced perspective of the scope of the proposed legislation as well as its affect on existing law.

PART I—DEFINITIONS AND BACKGROUND

Definitions

The following terms are defined here to facilitate understanding and writing this analysis:

1. "armed force or service" means the Army, Navy, Air Force or Marine Corps. The Coast Guard which is a part of the armed forces is omitted from this definition because DOPMA would not apply to Coast Guard officers except when that service operates as part of the Navy.
2. "regular officer or regular commissioned officer" means an officer of the Regular Army, Regular Air Force or Regular Marine Corps in a grade above Chief Warrant Officer, W-4.
3. "reserve officer or reserve commissioned officer" means an officer of the Army National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve or Air National Guard in a grade above Chief Warrant Officer, W-4.
4. "officer or commissioned officer" means both regular and reserve officers as defined in 2 and 3 above.
5. "active-duty list", a term used in DOPMA, means a list maintained by each service containing the names of all officers (arranged in order of seniority) serving on full-time, extended active duty. It would include all regular officers and those reserve officers on active duty other than for the sole purpose of (a) performing annual training, (b) performing special duties (e.g., members of selection boards or working groups), and (c) organizing, training and administering the reserve forces.
6. "separation" means discharge (regular officers) or release from active duty (reserve officers).

Background

DOPMA, the acronym for the Defense Officer Personnel Management Act, is a Defense Department proposal that would revise extensively Title 10, United

States Code, with respect to the laws governing the appointment, promotion and tenure of officers serving on extended active duty.

Stripped to its essence DOPMA would—

1. revise and, to a large extent, make uniform most of the laws governing the appointment, promotion and tenure of regular officers in the Army, Navy, Air Force and Marine Corps;

2. provide new grade tables for each armed force limiting the number of officers who could serve on active duty in grades O-4 (major/lieutenant commander), O-5 (lieutenant colonel/commander) and O-6 (colonel/Navy captain), and;

3. limit the active duty tenure of reserve officers to a maximum of 11 years of commissioned service.

If DOPMA were enacted, it would be the first major revision to the laws governing the management of regular officers since the Officer Personnel Act of 1947 (OPA).¹ Likewise, DOPMA would be the first major overhaul of the statutory officer grade limitations enacted in 1954 by the Officer Grade Limitation Act (OGLA).² DOPMA is not the first attempt at this undertaking, however. An antecedent legislative proposal to revise the OPA—popularly known as “Bolte” from the name of General Charles L. Bolte who chaired a DOD committee that recommended the changes—was submitted to Congress in the early 1960’s but was subsequently withdrawn by the Defense Department in 1966.

OPA was considered a major advance in improving the management of officer personnel and maintaining high morale among the officer corps. It was acknowledged, however, that OPA did not merge the officer management procedures of the Army (and later, the Air Force) and the Navy.³ The House Armed Services Committee explained in its report on OPA that it had set out to provide an integrated system in the legislation; however, the Committee concluded that the officer personnel policies of the two services were so vastly different as the result of many years of unrelated service practices that an integrated system would have been too radical a departure at that time. The Committee went on to express its belief that in time these “basic differences which now must necessarily exist will gradually fade away.”⁴ This, of course, has not been the case and it is this that DOPMA, within certain limits, is intended to correct.

In recent years—spurred by recurrent legislative grants of temporary grade relief for the Air Force⁵—there has been fairly widespread criticism that the armed forces have too many senior officers and the existing statutory limits for these grades need to be trimmed. This concern manifested itself in a directive included in a 1972 law granting the Air Force its sixth grant of temporary grade relief. Section 2 of P.L. 92-561, October 25, 1972 (86 Stat. 1175), directed the Secretary of Defense to submit a written report by May 30, 1973 “regarding limitations on the number of officers who may serve in the various commissioned grades . . . (and) include . . . such recommendations he deems appropriate for legislation to establish new permanent (grade) limitations . . .” DOPMA is the outgrowth of that directive.

DOPMA was submitted originally to the 93rd Congress and was introduced in the House on January 30, 1974 as H.R. 12405. The bill was not reported by the House Armed Services Committee although its Military Compensation subcommittee did hold hearings on the proposal during July 1974. The Defense Department resubmitted the proposal to the 94th Congress and the House subsequently passed the measure, with certain modifications recommended by the Armed Services Committee, on September 13, 1976 (H.R. 13958). The Subcommittee on Manpower and Personnel of the Senate Armed Services Committee also held hearings on DOPMA (S. 2424) during 1976. The Subcommittee had reservations about several provisions of the bill and did not complete action on it before adjournment of the 94th Congress.

¹ P.L. 80-381, August 7, 1947, ch. 512, 61 Stat. 795.

² P.L. 83-349, May 5, 1954, ch. 180, 68 Stat. 65.

³ The provisions of OPA relating to the Army were made applicable to the Air Force when it became a separate military department.

⁴ U.S. Code Congressional Service, Laws of the 80th Congress, First session. House Armed Services Committee. Report No. 640, June 23, 1947. St. Paul, West Publishing Co. (1947): 1640.

⁵ The Air Force has been granted temporary increases in the numerical grade limits originally prescribed by OGLA (codified as 10 U.S.C. 8202) eight times beginning in 1959. The latest authority (P.L. 94-454), which grants temporary increases in grades O-5 and O-6, will expire September 30, 1978. If the proposed DOPMA limits or further temporary relief authority is not enacted by then, OGLA limits would apply. The OGLA limits would authorize about 500 fewer O-6’s and 2850 fewer O-5’s than the existing temporary authority.

Shortly following the beginning of the second session of the 95th Congress, on February 14, 1978, the House again passed DOPMA (H.R. 5503) in the same version as H.R. 13958. Senator Nunn, Chairman of the Senate Armed Services Subcommittee on Manpower and Personnel, reportedly has promised further action on DOPMA beginning in early June 1978.⁶

⁶ Plattner, Andy. Nunn agrees to push DOPMA bill. Air Force Times. Apr. 17, 1978: 1, 4.

PART II—DOPMA: HOW WILL IT AFFECT DEFENSE OFFICER PERSONNEL: (A REPRODUCTION OF THE *Commanders Digest*, OCTOBER 27, 1977, VOL. 20, NO. 18, PUBLISHED BY THE DEPARTMENT OF DEFENSE.)

—DOPMA: How Will It Affect Defense Officer Personnel?^{1/}

The purpose of the Defense Officer Personnel Management Act (DOPMA) is to revise the laws which govern the management of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps below the grade of brigadier general or rear admiral. The Act would:

- Establish new statutory limitations on the number of officers who may serve in senior grades below flag rank;
- Provide a common law for the appointment of Regular officers and for the active-duty service of Reserve officers;
- Provide uniform laws for promotion procedures for officers in the separate Services;
- Establish common provisions governing career expectation in the various grades, and
- Establish common mandatory separation and retirement points.

The current laws governing the appointment, promotion, retirement, and separation of commissioned officers and the numbers permitted in each grade are distinctively separate for officers of each military department and contain many unwarranted differences both in substance and effect. These differences have resulted from the respective historic origins of the statutes and generally do not reflect differences in actual management needs existing today. DOPMA would provide common statutes to eliminate undesired deviations and encourage a more uniform interpretation and application of these laws. With respect to those existing statutes which include provisions governing officers serving in the grade of brigadier general or rear admiral and above, with the exception of creating a one-star grade of commodore admiral in the Navy, only those technical amendments needed to continue the present operation of the law for these officers have been proposed.

In recognition of the existing need to review the officer promotion system, the Secretary of Defense on Aug. 9, 1972, directed that a Department of Defense study group be convened to:

- Provide recommendations for an improved officer personnel management system, and
- Identify actions necessary to implement these recommendations.

The membership of the study group included the Assistant Secretaries (Manpower and Reserve Affairs) for the Military Departments, the Deputy Chiefs of Staff for Personnel, and appropriate representation from the offices of the Joint Chiefs of Staff and the Secretary of Defense.

The findings and conclusions of this study group formed the basis for the Secretary of Defense's report to Congress, the "Officer Grade Limitation Report," as well as this DOPMA proposal. The primary objectives of the officer personnel management system which have been formulated are not markedly different from those of the "Officer Personnel Act of 1947" and the "Officer Grade Limitation Act of 1954." Specifically, the system objectives are:

- To allow the Services to meet requirements for officers in the various grades at ages conducive to effective performance;
- To provide career opportunity that will attract and retain the number of high caliber officers needed, and
- To provide career opportunity which is reasonably consistent among the four Services.

In summary, DOPMA would establish a visible and consistent officer personnel management system for commissioned officers serving on active duty. It would provide the flexibility to be responsive to changing officer requirements at various strength levels which result from increases or decreases in basic force structure while at the same time striking the delicate balance between management objectives and equitable individual career expectations.

The following discussion covers the major provisions of DOPMA.

^{1/} Pages 5 through 13 constitute a reproduction, minus art work, of the above titled article which was contained in the October 27, 1977 (Vol. 20, No. 18) issue of the *Commanders Digest* published by the Department of Defense.

Revised Permanent Grade Authorizations

Based on recognition of the size of the active duty officer force which has been required to meet national security needs since 1947, revised statutory grade limitations for officers on active duty in grades O-4, O-5, and O-6 have been developed which will replace both the permanent regular limits of the Officer Personnel Act of 1947 and the temporary promotion grade ceilings of the Officer Grade Limitation Act of 1954 (OGLA).

The limitations will permit adequate manning of Defense senior officer requirements over a range of officer strengths while at the same time providing reasonable and consistent career opportunity within and between the officer corps of each Service. To accomplish this dual purpose the tables have retained the sliding-scale principle in OGLA, which provides that the percentage of field-grade officers does not increase or decrease as rapidly as changes in the total strength of the officer corps as a whole.

Most importantly, it should be recognized that the grade tables do not commit the Congress to any level of officer strength. Once the Congress determines the appropriate force level during the annual authorization process, then these tables will determine the maximum grade distribution at that force level. Therefore, the tables should be considered as an umbrella or permanent upper grade limit. They are not intended just to meet current force structure requirements but are designed to be a flexible management tool which allows long-range management of the officer corps and control of the senior grades.

A significant change reflected in these new grade limitations is that Reserve officers ordered to active duty in time of war or a National emergency declared after Jan. 1, 1977, will not be included in the grade limitations until six months after the end of the war or period of National emergency which gave rise to their mobilization. This will avoid the problems associated with attempting to integrate Reserves into a grade table not designed to accommodate them and will greatly ease and facilitate their lateral transition to and from active duty.

Finally, the grade limitations represent a particularly significant change for the Navy. Currently, Navy restricted line and staff corps officers are not subject to direct grade limitations but are controlled indirectly by their relationship to officers of the unrestricted line. This proposal will place restricted line and staff corps officers (with the exception of physicians and dentists) under grade control.

Certain Categories

In keeping with the principle in present law, DOPMA excludes certain categories of officers serving on active duty from total strength accountability and from the ceilings on the number of commissioned officers on active duty in each of the controlled grades (O-4 through O-6). DOPMA, however, consolidates common language in two sections of law applying to all Services and provides for uniformity in exclusions. Officers who are neither accounted for nor paid from the Military Personnel Appropriation are excluded from total strength accountability. Officers who are out of the normal active duty promotion career path are excluded in computing and determining strengths in the controlled grades (O-4 through O-6).

Exclusions from grade table accountability in current law total 13 per cent of the total active duty commissioned officer strength, while under DOPMA exclusions are reduced to seven per cent.

Improved Management and Equity for Reserve Officers

Within the total Defense force two components must be maintained to meet military requirements. These two components, the active duty component and the non-active duty Reserve component, require compatible but different management systems that will provide for ease of lateral movement between the components during peacetime and wartime. DOPMA provides a balance between Defense objectives and greater individual equity for Reserve officers. With respect to the active duty component, a single active-duty list is established in each Service encompassing all officers on active duty (both Regular and Reserve) which will be used for determining eligibility for promotion consideration by active duty selection boards. Reserve officers on the active-duty list are excluded from consideration by Reserve selection boards, eliminating the present duplicate administration of Reserve officers who are considered by active duty and by non-active duty selection boards. For the Reserve component, provision is made for Reserve officers who have been ordered to active duty during mobilization or other emergency situations to continue to be considered only by Reserve selection boards if the member becomes eligible for promotion during the mobilization period. This arrangement provides real equity for the mobilized Reserve officer and is much more equitable than the alternative of placing him temporarily on the active-duty

list where he would be at a distinct disadvantage in competing with career active duty officers for promotion.

Experience indicates that most officer management problems have occurred as a result of integrating a large number of mobilized members of the Reserve components into the active duty officer management system and then releasing them from active duty after a relatively short period of time.

The existing Reserve system is sufficiently compatible with the DOPMA system to permit parallel operation during war or emergency conditions, thus preserving the integrity of both systems and avoiding disruptions in either component during mobilization and demobilization. Following the enactment of the proposed legislation, the Department intends to submit companion legislation to modernize the Reserve officer personnel statutes to complete technical alignment of the personnel management systems of the two components.

An All-Regular Career Force After 11 Years

DOPMA provides for an all-Regular career force by the end of 11 years of commissioned service. Officers who begin their active commissioned service as Reserve officers can look forward to a full career only by integrating into the Regular force and accepting status as a Regular officer. This will end the contradiction of Reserve officers serving in career active-duty status and will prevent the inequities and uncertainties which the current system imposes on those officers during force reductions. Congress has continually expressed much concern over this issue.

By establishing an all-Regular force after 11 years, a visible career gate will exist that will motivate officers to commit themselves early to an active duty career while at the same time requiring Service managers to develop and evaluate the potential of junior officers and make commitments to those individuals needed by the Service in the career force. Further, greater individual equity will be achieved if all officers not selected for the career active duty force (except those Reserves involved in organizing, training, and administering the Reserve components) are released from active duty (with adequate compensation) not later than the completion of 11 years of commissioned service.

Up-or-Out System

During a review of DOPMA before resubmission to the 95th Congress, the "up-or-out" system, which was adopted for all the Services in the Officer Personnel Act of 1947, was closely examined. The system was designed to vitalize the officer corps, replacing seniority with selectivity as the criteria for promotion. That is, selective promotion of the best officers and attrition of the others. The interrelationships between promotion and attrition were arranged to prevent the growth of a superannuated corps of senior officers who would block the advancement of promising younger officers by simply stagnating in grade until time for retirement.

The basis of the up-or-out philosophy rests on two principles. First, when an officer is passed over in the selection process he is eliminated after a certain number of years depending on grade attained. Second, when an officer reaches the limit of his potential, after satisfactorily passing through the promotion system, he serves a reasonable period in his highest grade, then retires, thus ensuring that an adequate balance between experience and youth can be maintained. As mentioned previously, this principle evolved over time, has been more than adequately tested over the past 30 years, and has provided this Nation what it never had before in peacetime—a youthful, vigorous, fully combat-ready officer corps.

DoD is sensitive to the concerns which have been expressed over the cost of the up-or-out concept. The Department has examined the long-term impact on total system costs, including procurement, training, active pay and allowances, as well as separation and retirement costs. Defense's analyses indicate that this type of system does not cause excessive costs but on the contrary can be less costly than other reasonable alternatives. The relatively slight cost differentials between alternatives allow DoD to concentrate its efforts on developing the most effective, highly qualified, and motivated officer corps.

Single Promotion System

The adoption of a single promotion system by each Service would replace the dual temporary/permanent systems presently in effect. Present law provides for a two-step promotion system—temporary promotions are administered within the ceilings of the Officer Grade

Limitation Act of 1954, while permanent promotions are made under the permanent regular limits prescribed by the Officer Personnel Act of 1947. In the Army and Air Force, the law and policy provide for two separate selections, one for temporary ("insignia-change") promotion and a second for permanent ("regular") promotion which governs length-of-service expectation. In the Navy and Marine Corps, law and policy provide for a single selection for advancement to both temporary grade and permanent grade with promotion taking place as vacancies occur under the respective statutory limitations. Under this system, the single selection and temporary promotion govern length-of-service expectation.

The existing systems are archaic and administratively cumbersome for promotion to grades below brigadier general or rear admiral. For example, there is no need for Army and Air Force officers to undergo two separate selections for promotion to a given grade. DOPMA provides for only one promotion system for each Service, with promotion on a permanent basis as vacancies occur under a single set of statutory grade limitations.

In general, the proposed grade authorizations have been developed to provide for normal operation of the promotion systems within promotion timing guidelines and with minimum promotion opportunities as seen in Chart 2.

The progressively decreasing number of officers shown in Chart 3 is attributed to a combination of normal attrition due to death and disability and the forced attrition due to failure of selection with the latter playing the major role. This does not mean that 18 out of every 100 officers entering Service will be promoted eventually to colonel because voluntary separations and retirements that would occur have not been considered.

Promotion timing and promotion opportunity assumed for designing the grade tables have been limited by the practical consideration of both the historical results of the annual authorization/appropriation process and existing OGLA levels. Incorporation of better promotion opportunity in designing the tables would have been desirable; however, the constraints were such that the Department could not assure higher opportunities than these minimums in the future.

Interacting Variables of the Basic Elements of the Officer Management System

ANNUAL PROCUREMENT—The number of officers who are taken into the system each year to maintain a force of given size.

NORMAL ATTRITION—The number of officers who leave the system by voluntary separation, voluntary retirement, disability or death.

FORCED ATTRITION—The number of officers who leave the system by involuntary separation or involuntary retirement.

PROMOTION TIMING—The normal year of commissioned service during which the greatest number of officers are promoted to each grade.

PROMOTION OPPORTUNITY—The cumulative opportunity for advancement for those who have competed for promotion to the next higher grade.

GRADE DISTRIBUTION—The number of officers in each of the various grades.

Chart 1

Time of Promotion
(Years of Commissioned Service).

Grade	Time of Promotion (Years of Commissioned Service)	Promotion Opportunity
To First Lieutenant/ Lieutenant (j.g.)	2	Fully Qualified
To Captain/Lieutenant	4	95%
To Major/Lieutenant Commander	10±1 year	80%
To Lieutenant Colonel/ Commander	16±1 year	70%
To Colonel/Captain	22±1 year	50%

Chart 2

The combined impact of the promotion phase points and promotion opportunities portrayed in Chart 2 is shown in Chart 3 for 100 career officers.

Commissioned Service In Years	Grade Achieved	Numbers
0	Second Lieutenant/Ensign	100
2	First Lieutenant/Lieutenant (j.g.)	96
4	Captain/Lieutenant	87
10	Major/Lieutenant Commander	65
16	Lieutenant Colonel/Commander	41
22	Colonel/Captain	18

Chart 3

CRS-12

Uniform Career Service Expectation

Existing law provides for the mandatory separation or retirement of regular officers after specified periods of commissioned service depending upon the grade attained. These periods of service for Army and Air Force officers are different from those of Navy and Marine Corps officers. For example, a Navy lieutenant commander or Marine Corps major who has twice failed selection for promotion to commander or lieutenant colonel respectively is involuntarily retired after 20 years of commissioned service; an Army or Air Force major who has likewise twice failed selection for promotion to the permanent grade of lieutenant colonel is not involuntarily retired until he completes 21 years of commissioned service. A Navy commander or Marine Corps lieutenant colonel who has twice failed selection for promotion to captain or colonel respectively is involuntarily retired after 26 years of commissioned service; an Army or Air Force lieutenant colonel who has likewise failed selection for promotion to the permanent grade of colonel is not involuntarily retired until he completes 28 years of commissioned service. These differences are unwarranted.

DOPMA will provide for clearly defined and uniform career service expectation across the Services. Officers in the grades of major or lieutenant commander and below who twice fail selection to the next higher grade will be subject to involuntary separation or retirement (if eligible). However, when the needs of the Service require, the Service Secretaries may convene selection boards to recommend officers in the grade of major or lieutenant commander for continuation on active duty. Officers continued, but not subsequently selected for promotion, would be retired when they become eligible. Lieutenant colonels and commanders who twice fail selection to the next higher grade will be involuntarily retired after the completion of 26 years of commissioned service. Colonels and captains (Navy) would be involuntarily retired after the completion of 30 years of commissioned service if they have not been selected for promotion to general/flag grade.

CAREER EXPECTATION			
(MANDATORY SEPARATION/RETIREMENT POINTS -MAXIMUM YEARS OF COMMISSIONED SERVICE- FOR OFFICERS WITH REGULAR APPOINTMENTS)			
	EXISTING LAW		BILL
	ARMY-AIRFORCE	NAVY-MARINE CORPS	ALL SERVICES
COLONEL/ CAPTAIN	30	30-31	30
LIEUTENANT COLONEL/COMMANDER	28	26	26
MAJOR/LIEUTENANT COMMANDER	21	20	20
CAPTAIN/LIEUTENANT	14	2 PROMOTION FAILURES	2 PROMOTION FAILURES
FIRST LIEUTENANT/ LIEUTENANT JUNIOR GRADE	7	2 PROMOTION FAILURES	2 PROMOTION FAILURES

- Selection-Continuation

Authority is provided to convene continuation boards for officers in the grade of O-6 with four or more years in grade and for officers in the grade of O-5 who have twice failed selection for promotion. DOPMA requires that such continuation boards, if convened, must retain at least 70 per cent of the officers considered. Once continued, an officer would not be vulnerable to another board action for five years. Those not continued would be retired not later than the first day of the seventh calendar month after the report of the continuation board has been approved by the Service Secretary. DOPMA additionally provides that during the transition period to the new system those officers in or selected to grades O-5 and O-6 at the time of legislative enactment would be eligible for a lump-sum transition payment of \$4,000 if they were non-continued. The transition payment is to recognize the adjustment required by the shortening of their career expectation. Officers selected to the grades of O-5 and O-6 after enactment would accept the promotion with the awareness that they might face a continuation review. Accordingly, no transition payment to these officers would be authorized.

These selection continuation procedures are intended to be used sparingly and are primarily a means of reducing the numbers in grade when necessary, such as a reduction in force.

Equalized Treatment for Female Officers

With the essential objective of providing equal opportunity for women, DOPMA repeals many long-standing provisions of law which contain unwarranted distinctions with regard to female officers.

As a result, the basic provisions of DOPMA relating to appointment, promotion, accountability, and retirement will apply equally to both male and female officers.

Special provisions of law relating to female personnel which are not changed by DOPMA are those which exclude women from aircraft engaged in combat missions or on ships other than hospital ships and transports (section 6015 and 8549, title 10, U.S. Code). These provisions are not directly related to the officer promotion management system. Any change in the statutory restrictions on women serving in combat is an important and fundamental question which should be considered as a separate matter.

SELECTIVE CONTINUATION PROVISIONS

MAJOR/LIEUTENANT COMMANDER	SEPARATED AFTER 2 PROMOTION FAILURES	--- UNLESS SELECTED FOR CONTINUATION TO:	20 YEARS
LIEUTENANT COLONEL/ COMMANDER	ELIGIBLE AFTER 2 PROMOTION FAILURES	--- AT LEAST 70% CONTINUED TO:	26 YEARS
COLONEL/CAPTAIN	ELIGIBLE AFTER 4 YEARS IN GRADE	--- AT LEAST 70% CONTINUED TO:	30 YEARS

Uniform Constructive Service Credit

Constructive service credit awarded to officers being appointed in a professional specialty is a way of recognizing time invested in additional preparation beyond the bachelor degree and serves to place an officer in precedence with other officers who are his approximate age and who received their baccalaureate education contemporaneously. Present law and current administrative practices for awarding constructive service credit are inequitable and inconsistent across the Services. DOPMA provides equity and uniformity in the application of constructive service credit and eliminates its use where not appropriate.

Constructive service credit is provided for on a year-for-year basis for each year of education normally required beyond the baccalaureate level—in other words, beyond four years. For example, under the proposed criteria, constructive service credit would be four years for medicine and dentistry and three years for veterinary medicine and optometry.

As proposed, constructive service credit would be used for determining the entry grade, the position on the active-duty list, seniority in grade and time in grade for promotion eligibility, and selective continuation.

At the present time, medical and dental officers may use constructive credit to compute longevity for determining the level of basic pay and allowances. DOPMA would eliminate this practice in the future. In addition, physicians and dentists may use constructive service credit in their retired pay multiplier. The proposed legislation also eliminates this practice in the future.

Commodore Admiral Grade in the Navy

Under present law applicable to the Navy, there is only one grade for promotion purposes, rear admiral, where the other Services have two grades, brigadier general (O-7) and major general (O-8). Navy rear admirals all wear the two-star insignia of an O-8. Title 37, United States Code, divides rear admiral into two grades, rear admiral (lower half) and rear admiral (upper half) for pay purposes. Rear admiral (lower half) is paid as an O-7 and rear admiral (upper half) as an O-8. Pay-grade advancement is automatic from the lower half to the upper half when the officer enters the upper 50 per cent of the rear admiral population. DOPMA incorporates provisions creating a one-star grade in the Navy which parallels that grade in the other Services. The new O-7 grade will have the title of commodore admiral. Also provided for in the legislation is a requirement for officers to be selected to the two-star grade of rear admiral by a selection board process. Not more than 50 per cent of flag officers would be allowed in grades of rear admiral and above. These provisions are similar to those currently in effect for the other Services.

Correction of Air Force Grade Table Inconsistency

Finally, it should be noted that the existing Officer Grade Limitation Act specifies lower limitations in the grades of lieutenant colonel and colonel for the Air Force than for the similar grades in the Army and Navy. These lower limitations reflect the fact that the Air Force, when OGLA was enacted in 1954, had a relatively young officer force in terms of years of active duty. Congress recognized that, as the Air Force matured, the tables would have to be adjusted and has subsequently granted temporary relief eight times since 1959. These relief measures have allowed Air Force officers to achieve comparable promotion flow with their contemporaries in the other Services. The new grade limitations in DOPMA will correct the existing inconsistencies; however, the current temporary increase expires on Sept. 30, 1978, at which time the original Officer Grade Limitation Act takes effect. A return to permanent grade limitations would produce severe debilitating effects on Air Force career officers. The attraction and retention of younger officers to that Service would be inhibited for many years. Recognizing this situation, separate action to extend further the current Air Force temporary grade limitation authority will be necessary if the new grade limitations proposed are not enacted by the 95th Congress.

Long Term Cost Estimate

The estimate of the long-term cost impact of DOPMA assumes a stabilized officer force level and grade structure and was performed with a computer model. Using this technique the long-term consequences of a set of management policies can be examined. The two cases examined were:

- officer management under existing law, and
- officer management under DOPMA. The results of these simulations for a constant force size equivalent to that presently projected for the end of FY 1982 are seen in Chart 4.

Many interactions occur which cause the shift in costs between the two cases. For example, higher procurement costs result due to a slightly increased accession level in the DOPMA case. The increased procurement and training costs, however, are offset by reduced pay and allowances costs (because of fewer senior officers), and reduced retirement costs (because of fewer numbers of officers retiring). These kinds of interactions demonstrate the importance of the officer management system as a whole.

Chart 4

Item	Dollars in Millions ¹		
	OGLA	DOPMA	Difference
Procurement and Training Costs	\$1,162	\$1,238	→ \$ 76
Pay and Allowance Costs	4,774	4,720	→ 54
Retirement Costs	2,241	2,122	→ 119
Involuntary Separation Costs	34	33	→ 1
Other Loss Costs	85	89	→ 4
Total System Cost:	\$8,296	\$8,202	→ \$ 94

¹ All dollars are in annual expenditure terms, calculated in constant FY1977 dollars at rates consistent with the FY1978 President's Budget. However, because of the computer simulation technique used, totals are not directly comparable with the FY 1978 budget request. Further, because of the Steady-state technique being used, the full cost impact of DOPMA would not be obtained until after at least 20 years of operation.

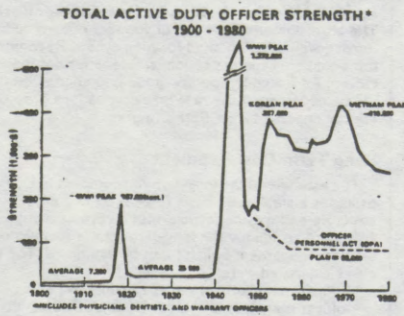
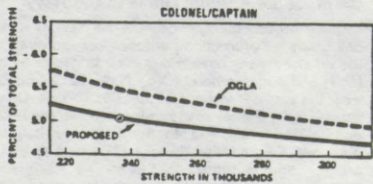
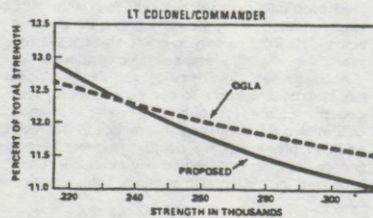
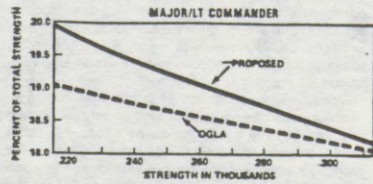


Chart 5

DEPARTMENT OF DEFENSE AGGREGATE EXISTING GRADE LIMITATIONS COMPARED TO PROPOSED GRADE TABLES



NOTE

1 "OGLA" LINES INCLUDE USAF TEMPORARY LIMITS UP L 94 5M1

2 "PROPOSED" LINES INCLUDE H.A.S.C. REDUCTION OF 3% IN COLONEL/CAPTAIN AND LT COLONEL/COMMANDER

What DOPMA Provides During Transition

officers serving in the grade of captain or lieutenant (Navy) who have completed seven or more years of active commissioned service may be continued on active duty as Reserve officers until they are considered to have twice failed of selection to the grade of major or lieutenant commander. The number who will be given Regular commissions during this period will depend on officer strengths authorized. Should strengths remain substantially at present levels, it is anticipated that most Reserve officers with nine to 18 years of service on the date of enactment could be augmented to Regular status. Reserve officers who have 18 years of service on enactment of DOPMA, or who attain 18 years service during the two-year transition period, will be permitted to serve as Reserves until they are eligible for retirement.

All promotions made after date of enactment will be under the new single-step promotion system. Officers serving on date of enactment in a temporary grade higher than their permanent grade will retain the higher grade under the new system. Officers recommended for promotion, but not yet promoted, prior to enactment will be considered as recommended for promotion under the new system.

New service points for mandatory retirement become effective on enactment and apply to officers according to the grade in which they are serving on the date of enactment, except Regular Army and Air Force officers serving in or selected to permanent grades of major, lieutenant colonel, or colonel. These officers will retain their statutory expectation under laws existing prior to enactment of 21, 28 and 30 years respectively. Regular Army and Air Force officers serving in or selected to the temporary grade of brigadier general or higher who held a permanent grade below brigadier general on the date of enactment will be considered to have been promoted to colonel under terms of this bill for purposes of mandatory retirement.

Service points for mandatory separation/retirement become effective on enactment for officers in all grades except that:

- Regular officers who are serving in or selected to the permanent grade of major (and not serving in a higher temporary grade) in the Army and Air Force as well as officers serving in or selected to the grade of lieutenant commander in the Navy and major in the Marine Corps on the date of enactment will not be subject to mandatory separation until they have completed 21 and 20 years of service respectively.

- Army and Air Force officers holding a permanent grade below lieutenant colonel who have received one failure of selection for promotion to the next higher permanent grade as of date of enactment will receive a second consideration within one year. If not selected at that time they will be retired or separated in accordance with laws existing prior to enactment.

A lump sum transition payment of \$4,000, in addition to retired pay, will be authorized for officers serving in or selected to the grades of lieutenant colonel/commander and colonel/captain on enactment who are subsequently selected for non-continuation and mandatorily retired.

The bill provides for orderly transition to protect rights and entitlements of officers on active duty prior to enactment.

Within six months of enactment, all officers, Regular and Reserve, with exception of Reserve officers on active duty for training and administering reserve programs will be placed on a single seniority list of their respective Services. This "active duty list" determines future eligibility for promotion consideration under new system.

Transition to the all-Regular career force (officers with over 11 years of service) will be accomplished essentially over a two-year period. Within this period "active duty list" Reserve officers with over nine years service on date of enactment will be integrated into the Regular force or released. However,

PART III—A DESCRIPTIVE ANALYSIS OF THE MAJOR PROVISIONS OF DOPMA
COMPARED TO EXISTING LAW

Purpose of DOPMA

Like existing law governing officer personnel management, DOPMA can be viewed as a combination career management, promotion management, and force structuring system for active-duty list officers: a career management system because it would prescribe detailed rules governing appointment, promotion, involuntary separation and mandatory retirement; a promotion management system because it would prescribe a structured promotion system that moves the best-qualified up and eliminates the least qualified, and; a force structuring system because the up-or-out advancement concept would actively shape the officer force mix in terms of age, experience, years of service, regular/reserve mix, skill mix, and grade mix.

Existing law pertaining to these matters differs substantially between the Army and Air Force on the one hand and the Navy and Marine Corps on the other. For example, at present Army and Air Force officers serving on active duty must be selected for promotion to the same temporary and permanent grade by separate selection boards. In contrast, one selection board suffices for both promotions in the Navy and Marine Corps. Another example: By Law, about half of all Navy officers serving on active duty in grades O-4 through O-6 are not counted against statutory limits for these grades whereas only about 10 percent of all Army and Air Force officers are similarly nonchargeable.

DOPMA's hallmark is that it would revise most of the existing laws governing the management of officers serving on active duty to make them more uniform among the services. The proposed legislation entails major revision of laws originally enacted in the Officer Personnel Act of 1947 and the Officer Grade Limitation Act of 1954, now codified throughout the four subtitles of Title 10, United States Code. In making these provisions more uniform, DOPMA would repeal upwards to 200 sections of existing law and locate the majority of the revised laws into three chapters of one subtitle of Title 10. Consequently, DOPMA would significantly simplify and condense the laws dealing with officer personnel management among the armed forces.

However, DOPMA would do more than just revise and simplify existing law. It also would introduce new officer management concepts. Among the most significant are the following:

1. Establish an all-regular officer career force; that is, only regular officers would be retained on the active-duty list after the 11th year of commissioned service.
2. Limit the active duty tenure of an active-duty list reserve officer to a maximum of 11 years of commissioned service (longer service would require appointment to the regular component of the parent service).
3. Revise the active-duty grade tables for the Navy to include restricted line officers, staff corps officers (except medical and dental officers which categories include substantial numbers of officers traditionally excluded from Navy statutory grade limits).
4. Require the involuntary discharge of a regular O-4 (major/lieutenant commander) who twice fails to be selected for promotion to O-5 (lieutenant colonel/commander) unless he is within two years of qualifying for 20-year retirement or is, subject to the needs of the service, selected for continued active duty.
5. Repeal existing statutory limits on the numbers of regular commissioned officers authorized each armed force and grant the Secretary of each military department the authority to prescribe such strengths.
6. Exclude mobilized reserve officers from the proposed new grade limits and authorize their separate promotion consideration apart from officers serving on the active-duty list.
7. Grant the Secretary of Defense authority to prescribe the officer skill categories for which constructive service (service not actually performed) may be credited as commissioned service.
8. Grant the Secretary of each military department discretionary authority to select limited numbers of regular officers in grades O-5 and O-6 for involuntary retirement prior to their completing the statutorily-prescribed years of service for mandatory retirement in their respective grades.

In sum, DOPMA concentrates on the management of regular and reserve officers serving on the active-duty list in grades O-1 (second lieutenant/ensign) through O-6 (colonel/Navy captain). With one notable exception, DOPMA would maintain the status quo with respect to the laws affecting flag officers (generals

and admirals). In this regard, the House Armed Services Committee departed from historical tradition in the Navy by adding language to DOPMA that would

create a one-star "commodore admiral" grade and require selection by a promotion board for advancement to the two-star rear admiral grade.¹

Active duty warrant officers and reserve officers serving in the reserve forces would be unaffected by the proposed legislation.

Finally, it is important to note that although DOPMA would provide uniform laws with respect to the promotion management of active-duty list regular and reserve officers through grade O-6, the proposed legislation would not require uniformity in practice. As with existing law, the military department Secretaries would have autonomy in such matters.²

Permanent Grade Authorizations

Under existing law each service has three separate sets of officer grade tables regulating strengths in grade: (1) the so-called OGLA tables (Officer Grade Limitation Act of 1954) which set numerical limits on the number of officers who may serve on active duty in each grade above O-3 at various total officer strength levels; (2) tables enacted in the Officer Personnel Act of 1947 to regulate strengths in permanent grades for regular commissioned officers, and; (3) tables enacted in the Reserve Officer Personnel Act of 1954 to regulate strengths in permanent grades for reserve commissioned officers.³ DOPMA would not revise the latter tables. It would, however, make extensive revisions to the OGLA and OPA tables by repealing those portions of both tables pertaining to grades below O-7 (brigadier general/commodore admiral).⁴ In their place, DOPMA would provide a single table for each armed force setting numerical limits on the number of active-duty list officers who could serve in grade O-4, O-5 or O-6.

The OPA was enacted at a time when it was thought that U.S. military forces would be reduced to relatively small cadre forces as their post-World War II occupation duties in Europe and Asia came to an end. Thus, the grade tables contained in OPA were designed to suit the needs of the small regular officer corps that was envisioned. While OPA included provision for temporary promotions, such authority was provided primarily for contingencies requiring temporary expansion of the officer corps.

Events have proven otherwise, of course. Since the beginning of the 1950's this country's active military forces have stood at two million or more personnel. Officer strengths (excluding warrant officers) for most of the past 25 years have been above 300,000, reaching nearly 400,000 during the Vietnam War. Until recently, over 50 percent of the officers on active duty were reserve officers. (As of September 30, 1977, reserve officers constituted 38 percent of the 258,674 officers serving on active duty.) Consequently, temporary promotions became the mainstay of the officer promotion management systems of the four services. Indeed, the OGLA tables were enacted by Congress in 1954 specifically to control temporary promotions by limiting the number of officers who could serve on active duty in the senior grades. The substitute DOPMA grade tables are intended to serve the same function for the proposed single active duty promotion system.

The DOD publication states (page 11, first column, third paragraph) that the numerical grade limits proposed in DOPMA for each service "generally" were designed to accommodate a systematic promotion pattern under conditions of relatively stable officer strength levels. (The planned pattern is delineated in Chart 2 on page 11.) The graphs portrayed in the DOD publication (page 15) enable a rough comparison of numerical limits between OGLA and DOPMA. At current total officer strengths (i.e., the combined officer strengths of the four services, minus warrant officers), the numerical limits for grades O-4 through O-6 aggregate about the same number of officers as OGLA (DOPMA—88,800 vs. OGLA—88,200).⁵ Examining the separate grades, our comparison shows that the

¹ These new provisions are discussed in the DOD publication; see page 14.

² For example, the planned normal promotion opportunity to O-6 for each service is 50 percent (see Chart 2, page 11). In practice, however, one service could set a higher opportunity while another might set a lower opportunity.

³ Public Law 83-773, September 3, 1954, ch. 1257, 68 Stat. 1147.

⁴ As noted earlier, the proposal would not affect the flag officer grades with the exception of adding a new one-star grade in the Navy. Consequently, DOPMA would not change existing statutory ceilings on permanent and temporary flag grades. However, the fiscal year 1978 Department of Defense Appropriation Authorization Act (Public Law 95-79) requires an 8 percent reduction in the total numbers of flag officers on active duty by October 1, 1980 (from an end-fiscal year 1977 strength of 1,165 to 1,073).

⁵ The graphs for grades O-5 and O-6 have been adjusted by the Defense Department to reflect the temporary increases in the Air Force OGLA tables authorized by section 4, Public Law 94-454, October 2, 1976 (90 Stat. 1519). This authority will expire on September 30, 1978.

DOPMA limits would be slightly lower for grade O-6 (12,000 vs. 13,000), almost the same for grade O-5 (approximately 30,000 by either table), and a little higher in grade O-4 (46,600 vs. 45,000).⁶

Under both the OGLA and DOPMA grade tables, certain categories of officers are—or would be—statutorily excluded from the numerical limits officers in these categories are authorized as additional numbers in grade. As the following table shows, there is substantial variation in the excludable categories permitted under existing law; in particular between the Army and Air Force tables versus the Navy and Marine Corps tables.

TABLE 1

Category	Excluded from—				DOPMA limits (all services)
	OGLA limits				
	Army	Navy	USAF	USMC	
Medical and dental officers	Yes	Yes	Yes	NA	Yes.
Retirees on active duty	No	Yes	No	Yes	Yes.
Reserve program administrators ¹	No	Yes	No	Yes	Yes.
Reimbursables ²	Yes	Yes	No	Yes	No.
Academy permanent professors	Yes	NA	Yes	Yes	No.
Women officers	No	Yes	No	NA	No.
Restricted line/staff officers ³	No	Yes	No	Yes	No.
Mobilized reserve officers ⁴	(5)	Yes	No	No	No.
Officers in selective service ⁵	(5)	(5)	(5)	(5)	Yes.
	Yes	Yes	Yes	Yes	Yes.

¹ Reserve officers serving on full-time active duty under specified provisions of law; i.e., 10 U.S.C. 265, 678, 3033, 3496, 5251, 5252, 8033, or 8496, or 32 U.S.C. 709.

² Officers serving agencies outside DOD.

³ Navy designations; e.g., aviation maintenance, public information, nurses, chaplains, and supply officers. Officers in other services performing similar duties are counted.

⁴ Reserve officers ordered to active duty during war or national emergency.

⁵ Counted against limits unless in an excluded category.

⁶ Carried as reimbursables under existing law.

Under the DOPMA tables, the excludable categories would be uniform and, in the aggregate, significantly fewer number of officers would be excluded (unless, of course, sizeable numbers of reserve officers would be mobilized). The fact that fewer numbers of officers would be excluded is due almost entirely to the change in accountability status of women officers, restricted line officers and staff corps officers in the Navy. Officers in these categories, which are not counted against Navy OGLA tables, constitute between 25 and 30 percent of the total number of Navy officers serving in grades O-4 through O-6.⁷

Management of Reserve Officers and the All-Regular Career Officer Force

The all-regular career officer force concept embodied in DOPMA would be a radical departure from long-standing procedure among the services. Under this concept, only regular officers—the bulk of whom would be former active-duty list reserve officers—could serve on the active-duty list after the 11th year of commissioned service. The all-regular concept would be mandated by proposed new section 10 U.S.C. 687a. This provision would require the involuntary release of all active-duty list reserve officers from active duty upon completion of 11 years of commissioned service.⁸ In addition, the military department Secretaries would be prohibited from recalling voluntarily any reserve officer with more than 11 years of commissioned service to serve on the active-duty list. The military department Secretaries would have no discretionary or waiver authority under the proposed section. Only in time of war or national emergency declared by the Congress or the President could section 687a be suspended, and then only by the President.

Proposed section 687a would impose a totally new dimension of officer force management on service personnel planners. Under existing law, the military department Secretaries have broad discretionary authority to retain, release or recall (voluntary) reserve officers in response to short- or long-term needs of the active officer forces. In fact, it has been long-standing practice among the services to retain substantial numbers of qualified and experienced reserve officers through

⁶ While these are rough comparisons, they are accurate enough to be credible. The estimated strength in each grade was based on the percentage distribution shown for each grade for a total accountable (i.e., chargeable to the grade tables) officer force of 240,000.

⁷ Technically, Navy medical and dental officers are categorized as staff corps officers. Because medical and dental affairs are now and would be uniformly excluded from grade table limits, Navy medical and dental affairs are not included in the proportions cited.

⁸ Commissioned service would include service as an officer on active duty or in the reserve components.

at least 20 years of service.⁹ Under DOPMA, this flexibility of options would be greatly curtailed.

Because of the many unknowns enmeshed in the proposed all-regular career officer force concept, it is difficult at best to predict the effect it will have on officer force management and the officer force itself. The Defense Department has enumerated the advantages it sees in the proposed concept (see discussion under the heading, "An All-Regular Career Force After 11 Years", page 10). It is fair to point out, however, that the Defense Department could achieve these same objectives—without the rigidity entailed in proposed section 687a—through the discretionary authorities already provided under existing law.

Moreover, it is difficult to speculate with any degree of certainty whether or not the proposed concept would "prevent the inequities and uncertainties which the current system imposes" on reserve officers during forced reductions in the officer force. For example, if one assumes a reduction following a sustained period of force expansion during which increased officer requirements were met almost exclusively by increased procurement of reserve second lieutenants (similar to the Vietnam experience), it seems evident that the weight of the reduction would fall on these officers. Albeit, the officers released would have less than 11 years of commissioned service, but this was also true for the vast majority of reserve officers forced to leave active duty during the post-Vietnam force reductions.¹⁰

DOPMA also would produce another major change from existing law with respect to the promotion management of mobilized reserve officers. As previously noted, mobilized reserve officers would not be counted against the proposed DOPMA limits for grades O-4 through O-6 as they are under OGLA (although this could be academic since the President may suspend either grade table during a war or national emergency). Concomitantly, DOPMA would not require the integration of mobilized reserve officer with active-duty list officers for active duty promotion consideration. Rather, while serving on active duty under the mobilization order, mobilized reserve officers would continue to be considered for promotion under laws governing the promotion management of officers in the reserve components. The DOD publication notes (see pages 9-10) that this proposed procedure would provide equity to mobilized reserve officers because if they compete for promotion with active-duty list officers they are at a disadvantage. Critics observe, however, that while this rationale for the proposal has merit, separate promotion systems contradict the best-qualified promotion selection process which is the heart of the up-or-out concept—i.e., advancement of the best qualified and elimination of the least qualified.

Up-or-out System

In general, the up-or-out concept requires that an officer be selected for promotion to the next higher grade at specified career service points or be involuntarily separated or retired (if eligible) if not selected after two considerations. This unique concept has evolved over the years to become the keystone of officer personnel management in the military services. Defense officials argue—not without merit—that the up-or-out promotion system is vital to maintaining a young and vigorous officer corps capable of meeting the challenges of modern warfare. Other quarters are concerned, however, that the system as it has evolved under the policies of the military departments has become excessively costly and wasteful of qualified officers. They are concerned that the application of the up-or-out concept under DOPMA would be more pervasive and more rigid than is the case under existing law.¹¹

The most significant differences between DOPMA and existing law with respect to the up-or-out concept are summarized below.

⁹ As of September 30, 1977 (the latest data available at this writing), about 15 percent of the 97,000 officers serving on active duty in grades O-4 through O-6 were reserve officers. By service, the ratios were: Army—24 percent; Navy—10 percent; Air Force—12 percent; Marine Corps—5 percent.

¹⁰ For example, the Army selected 2,138 officers for involuntary release from active duty in fiscal year 1976 in order to reach reduced manning levels. All the officers selected had approximately 5-9 years commissioned service.

¹¹ These concerns have been expressed from a variety of sources. For example, Senator Nunn, Chairman of the Senate Armed Services Subcommittee on Manpower and Personnel, has expressed concern over the rigidity of the concept as embodied in DOPMA (see Congressional Record, daily edition, August 10, 1976, pages S14125-26).

In its April 1976 report to the President and the Congress, the Defense Manpower Commission stated that the up-or-out concept created too much turbulence and personal hardship. The Commission recommended alternative procedures to supplant the concept. (See pages 261-2, Defense Manpower: The Keystone of National Security, April 1976.)

The House Appropriations Committee in addressing this issue in a report on DOPMA it issued during the first session of the 95th Congress, expressed hope that the Senate would modify the up-or-out provisions in DOPMA to achieve savings and efficiencies. (See Report No. 95-566, Part II, to accompany H.R. 5503, pages 5-6.)

1. DOPMA would add a new dimension to the up-or-out concept by requiring the involuntary separation of active-duty list reserve officers who are not selected for regular appointments. Such officers, who would be serving in grade O-3, would be separated upon completion of 11 years of commissioned service. This proposed procedure is discussed in greater detail above.

2. Under DOPMA, regular O-3's who twice fail to be selected for promotion to O-4 would be involuntarily separated or, if eligible, retired. Those officers in the so-called retirement sanctuary (i.e., having at least 18 but less than 20 years of service) would be retained to complete 20 years and then retired.

These provisions would be similar to existing law.¹² Unlike existing law, however, the military department Secretaries would have no options available to them—unless, of course, these provisions were suspended during a war or national emergency—to retain those officers deemed fully qualified to serve in their grade and skill in spite of service needs.¹³

3. Through a combination of law and long-standing policy, regular officers promoted to the permanent grade of O-4 have been assured tenure (barring separation for cause) to complete 20 years of service for retirement eligibility. Navy and Marine Corps officers have this entitlement as a matter of law. By policy, Army and Air Force regular officers are considered for promotion to the permanent grade of O-5 at late enough career service points to insure that those not selected, and consequently subject to elimination, have sufficient service to qualify for retirement.

Under DOPMA, regular O-4's who fail to be selected for promotion to O-5 after two considerations would be subject to involuntary separation before reaching retirement eligibility.¹⁴ The military department Secretaries would, however, have discretionary authority to continue twice-failed O-4's subject to the needs of the services and the recommendation of specially convened selection boards.

4. DOPMA would require the involuntary retirement of regular O-5's upon completion of 26 years of commissioned service. This provision would be the same as existing law for the Navy and Marine Corps; however, it would lower the existing mandatory retirement point for Army and Air Force regular O-5's by two years—from 28 to 26 years. (Regular O-6's would be involuntarily retired when they complete 30 years of commissioned service which corresponds to existing law for each service.)

5. Finally, DOPMA would give the military department Secretaries new discretionary authority to select—subject to the recommendation of a selection board—regular O-5's and O-6's for involuntary retirement prior to the prescribed mandatory retirement points for officers in these grades. The details of this proposed new authority are described in the DOD publication under the caption, Selection-Continuation (page 13).¹⁵

Single Promotion System

In contrast to current procedures among the services, there would be a single selection and promotion process to grades O-2 (first lieutenant/lieutenant junior grade) through O-6. With the exception of the House-added provision requiring a selection board recommendation for promotion to rear admiral, DOPMA would continue the existing dual promotion process for the flag grades.

The normal pattern among the services is to promote regular and reserve officers twice to the same grade—first a temporary promotion followed at some later date by permanent promotion. Essentially, a temporary promotion results in advancement in active duty grade, seniority and pay while permanent promotion insures added tenure in the officer's component (regular or reserve). While the general pattern is the same among the services, the procedures are not.

In the Navy and Marine Corps, one selection board selects officers for both temporary and permanent promotion to the same grade: temporary promotion is based on active duty grade vacancies while permanent promotion occurs when a vacancy exists in the limited permanent grade structure. In contrast, Army

¹² Existing applicable law for the Navy and Marine Corps does not provide specific authority to retain twice-failed regular O-3's in the retirement sanctuary in order to qualify for retirement. However, the general practice is to tender such officers reserve appointments for the purpose of permitting them to complete 20 years of service.

¹³ Such an option takes on added importance considering that the planned 80-percent promotion opportunity to grade O-4 would require that nearly 20 percent of the O-3's considered for promotion must be found "not best qualified" for promotion and consequently be discharged.

¹⁴ This would result from a combination of law and policy. Under DOPMA the rules governing the elimination of a twice-failed regular O-4 would be the same as those described earlier for twice-failed O-3's. Assuming the normal promotion timing to grade O-5 planned by the Defense Department (i.e., the 16th year of commissioned service as shown in Chart 2, page 6 of the DOD publication), most twice-failed O-4's would have approximately 17 years of service (short of the retirement sanctuary) and therefore subject to discharge.

¹⁵ The correct title should be "Selective Continuation" which is the term used by the Department of Defense.

and Air Force regular officers are considered for temporary and permanent promotion to the same grade by separate selection boards under different eligibility criteria.¹⁶

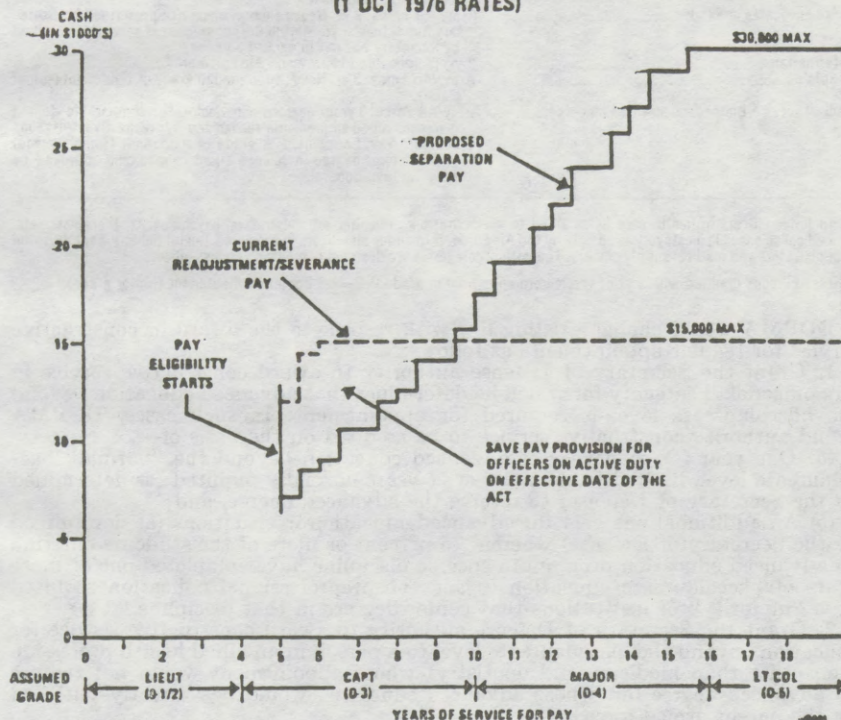
The Congress provided the services authority to make temporary promotions on the presumption that occasions would arise when it would be necessary to increase the size of the officer forces beyond the authorized limits for the regular officer components. Under such circumstances the services could use temporary promotions to meet their expanded officer grade requirements. As noted earlier in this paper, however, the contingency became the norm and, as a result, temporary promotions have become the real basis for officer career management. The dual selection and promotion process has never served a particularly useful purpose.

Separation Pay

Under existing law, regular and reserve officers involuntarily separated from active duty are paid severance pay (regular officers) or readjustment pay (reserve officers). The formulas to compute both types of pays are located in various sections of Title 10. The maximum authorized payment for either pay is \$15,000. DOPMA would repeal these provisions and substitute a single pay with uniform new formulas and a maximum payment of \$30,000. While the Defense Department originally had proposed a revised separation pay system in conjunction with DOPMA, the provisions presently included in DOPMA were added by the House Armed Services Committee.

The following chart compares the current system to the revised system proposed in DOPMA.

PROPOSED SEPARATION PAY COMPARED TO CURRENT READJUSTMENT/SEVERANCE PAY (1 OCT 1976 RATES)



Source: House Armed Services Committee. Report No. 95-566, part 1 to accompany H.R. 5503: 32.

¹⁶ Army and Air Force reserve officers serving on active duty may be promoted to a permanent grade that is the same as the temporary grade in which they are serving without the recommendation of a selection board.

Constructive Service

Under existing law, persons who will perform duty in certain professional skill categories (see Table 2 below) throughout their military service are credited upon original appointment (regular or reserve) with commissioned service not actually performed. Such credit is called constructive service and is used to determine appointment grade, seniority and future promotion eligibility. In addition, medical and dental officers are entitled to use constructive service in the computation of their basic pay and retired pay (a maximum of five years for medical officers and four years for dental officers.) In general, constructive service is awarded as compensation for the time persons in these professions spend prior to their appointments in acquiring the requisite advanced education to practice their profession. Also credit for *professional civilian experience* may (subject to the discretion of each military department Secretary) be awarded to persons appointed reserve officers and, in certain categories, to persons appointed as regular officers.

DOPMA would completely revise existing law governing the award of constructive service for regular appointments; it would leave the constructive service provisions for reserve appointments unchanged.

Existing law with respect to regular appointments prescribes the professional categories authorized constructive service as well as the credit to be awarded. The categories and credit authorized are set out in the following table.

TABLE 2

Professional category	Credit authorized
Medical officers.....	Amount of service prescribed by the military department Secretary concerned but at least 4 yr. If completed an internship of 1 yr or the equivalent, at least 5 yr.
Dental officers.....	Amount of service prescribed by the military department Secretary concerned but at least 4 yr.
Judge advocates general.....	Army/Air Force: 3 yr. Navy: amount of service prescribed by Secretary but at least 3 yr. Marine Corps: amount of service prescribed by Secretary but not to exceed 3 yr.
Veterinarians.....	3 yr. (Applicable to Army and Air Force only.)
Chaplains.....	Army/Air Force: 3 yr. Navy: appointed in grade of lieutenant (junior grade).
Medical service/Biomedical sciences officers ¹	Army/Air Force: 3 yr for persons with doctoral or comparable degree in science allied to medicine recognized by respective Surgeons General. Navy: appointed in grade of lieutenant (junior grade) with doctoral degree in science allied to medicine approved by Navy Surgeon General.

¹ Includes officers in health care fields allied to medicine; e.g., hospital administrators, psychologists, therapists, etc. Biomedical sciences is a category used only by the Air Force; it includes all officers in the allied health fields except hospital administrators and medical supply officers. The latter 2 categories are designated medical services officers.

Note: Persons credited with 3 yr of service are appointed in grade O-2—1st lieutenant/lieutenant (junior grade).

DOPMA would change existing law with respect to the award of constructive service for regular appointments as follows:

1. Grant the Secretary of Defense authority to award constructive service in any officer skill category for which he determines that advanced education beyond the baccalaureate level is required for appointment. In such cases, DOPMA would authorize constructive service to be credited on the basis of—

(a) One year for each year of advanced education beyond the “normal” baccalaureate level, limited to the number of years normally required (as determined by the Secretary of Defense) to receive the advanced degree, and;

(b) An additional one year for advanced education in situations (as determined by the Secretary of Defense) wherein 75 percent or more of the students entering an advanced education program in specific discipline have completed one or more years of baccalaureate education *beyond* the preprofessional education required by a “majority” of institutions that confer degrees in that discipline.¹⁷

2. Grant the Secretary of Defense authority to award constructive service for education beyond the baccalaureate level to a person in an allied health profession (i.e., other than medicine and dentistry) whose appointment would not require an advanced degree but whose advanced education would be “directly” utilized by the parent armed force.

¹⁷ This provision was added to DOPMA by the House Armed Services Committee.

3. Authorize the award of up to one additional year of credit for:

(a) Internship or equivalent graduate specialty training required by the parent armed force, and

(b) Graduate level training creditable towards certification in a specialty required by the parent armed force.

4. Authorize, in "unusual cases", additional credit to a person with "special" experience in a particular field as determined by the Secretary of Defense.

DOPMA would make one major change in the use of constructive service: medical and dental officers appointed after the effective date of the proposed legislation would not be entitled to have constructive service used in the computation of basic pay and retired pay.

Budget Implications

Estimating the cost/savings of the proposed DOPMA legislation in comparison to existing law is a risky business because of the many variables involved. The discussion of the long-term cost estimate in the DOD publication (page 14) indicates a savings of \$94 million annually. But it must be emphasized that this estimate is based on steady-state computer modeling of optimally structured officer forces. As the footnote to Chart 4 (page 15) notes, the "full cost impact of DOPMA would not be obtained until at least 20 years of operation."

For the near term, the Defense Department estimates that the first-year cost of DOPMA (i.e., fiscal year 1979) would be \$14 million. However, this estimate does not include the new separation provisions added to DOPMA by the House Armed Services Committee. It is estimated that these provisions would add about \$17 million more to the fiscal year 1979 cost.

The Congressional Budget Office (CBO) advised the House Armed Services Committee that the first-year cost of DOPMA (in this case an fiscal year 1978 cost) would have been \$32 million. The CBO also estimated that DOPMA would cost about \$72 million for the five-year period fiscal year 1978-1982. The CBO noted that the increased cost of DOPMA was attributable almost entirely to the new separation pay provisions; without this change, the CBO estimated that the five-year cost of DOPMA would be less than operating under existing officer management laws.¹⁸

Senator NUNN. The subcommittee is adjourned.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned subject to the call of the Chair.]

¹⁸ U.S. Congress. House. Committee on Armed Services. Defense Officer Personnel Management Act; report (including the cost estimate of the Congressional Budget Office) to accompany H. R. 5503. Washington, U.S. Govt. Print. Off., 1977. (95th Congress, 1st session. House. Report no. 95-566 Part 1): 116-118.

