

§ 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.

(Added Pub. L. 104-106, div. A, title V, § 563(a)(2)(A), Feb. 10, 1996, 110 Stat. 325.)

CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.	
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Editorial Notes

AMENDMENTS

2009—Pub. L. 111-84, div. A, title VI, § 643(e)(2), Oct. 28, 2009, 123 Stat. 2367, substituted "Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement" for "Retirement from active reserve service performed after regular retirement" in item 12741.

2000—Pub. L. 106-398, § 1 [[div. A], title VI, § 653(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165, added item 12741.

1999—Pub. L. 106-65, div. A, title VI, § 653(b)(2), Oct. 5, 1999, 113 Stat. 667, added item 12731b.

1996—Pub. L. 104-106, div. A, title VI, § 632(a)(2), Feb. 10, 1996, 110 Stat. 365, added item 12740.

1994—Pub. L. 103-337, div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, renumbered chapter 67 of this title as this chapter and amended analysis generally, renumbering items 1331 to 1338 as items 12731 to 12738, respectively, substituting "Entitlement to retired pay: computation of years of service" for "Computation of years of service in determining entitlement to retired pay" in item 12732 and "Computation of retired pay: computation of years of service" for "Computation of years of service in computing retired pay" in item 12733, and adding item 12739.

1992—Pub. L. 102-484, div. D, title XLIV, § 4417(b), Oct. 23, 1992, 106 Stat. 2717, added item 1331a.

1986—Pub. L. 99-348, title III, § 304(b)(1), July 1, 1986, 100 Stat. 703, added item 1338.

§ 12731. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay

computed under section 12739 of this title, if the person—

(1) has attained the eligibility age applicable under subsection (f) to that person;

(2) has performed at least 20 years of service computed under section 12732 of this title;

(3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and

(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Homeland Security, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

(A) the person performed active duty during World War I or World War II; or

(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

(2) In this subsection:

(A) The term "World War I" means the period beginning on April 6, 1917, and ending on November 11, 1918.

(B) The term "World War II" means the period beginning on September 9, 1940, and ending on December 31, 1946.

(C) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on July 27, 1953.

(D) The term "Berlin crisis" means the period beginning on August 14, 1961, and ending on May 30, 1963.

(E) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on March 27, 1973.

(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this

section shall be the date on which the requirements of subsection (a) have been completed.

(f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age.

(2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or performs active service described in subparagraph (B) after January 28, 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced, subject to subparagraph (C), below 60 years of age by three months for each aggregate of 90 days on which such person serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014. A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

(B)(i) Service on active duty described in this subparagraph is service on active duty pursuant to a call or order to active duty under section 12301(d) or 12304b of this title, or under a provision of law referred to in section 101(a)(13)(B) of this title. Such service does not include service on active duty pursuant to a call or order to active duty under section 12310 of this title.

(ii) Active service described in this subparagraph is also service under a call to active service authorized by the President or the Secretary of Defense under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President or supported by Federal funds.

(iii) If a member described in subparagraph (A) is wounded or otherwise injured or becomes ill while serving on active duty pursuant to a call or order to active duty under a provision of law referred to in the first sentence of clause (i) or in clause (ii), and the member is then ordered to active duty under section 12301(h)(1) of this title to receive medical care for the wound, injury, or illness, each day of active duty under that order for medical care shall be treated as a continuation of the original call or order to active duty for purposes of reducing the eligibility age of the member under this paragraph.

(iv) Service on active duty described in this subparagraph is also service on active duty pursuant to a call or order to active duty authorized by the Secretary of Homeland Security under section 712¹ of title 14 for purposes of emergency augmentation of the Regular Coast Guard forces.

(C) The eligibility age for purposes of subsection (a)(1) may not be reduced below 50 years of age for any person under subparagraph (A).

(3) The Secretary concerned shall periodically notify each member of the Ready Reserve described by paragraph (2) of the current eligibility age for retired pay of such member under this section, including any reduced eligibility age by reason of the operation of that paragraph. Notice shall be provided by such means as the Secretary considers appropriate taking into account the cost of provision of notice and the convenience of members.

(Aug. 10, 1956, ch. 1041, 70A Stat. 102, §1331; Pub. L. 85-704, Aug. 21, 1958, 72 Stat. 702; Pub. L.

85-861, §33(a)(8), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 89-652, §1, Oct. 14, 1966, 80 Stat. 902; Pub. L. 90-485, §2, Aug. 13, 1968, 82 Stat. 754; Pub. L. 95-397, title II, §206, Sept. 30, 1978, 92 Stat. 847; Pub. L. 96-513, title V, §511(47), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98-94, title IX, §924(a), Sept. 24, 1983, 97 Stat. 644; Pub. L. 101-189, div. A, title XIV, §1404(b)(1), Nov. 29, 1989, 103 Stat. 1586; renumbered §12731 and amended Pub. L. 103-337, div. A, title VI, §636, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2790, 2999; Pub. L. 104-106, div. A, title XV, §1501(b)(20), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105-261, div. A, title V, §561(n)(1), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, §1 [div. A], title V, §571(n)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §631(a), (b), Dec. 2, 2002, 116 Stat. 2571, 2572; Pub. L. 108-375, div. A, title V, §501(f), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 109-364, div. A, title X, §1071(a)(40), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 110-181, div. A, title VI, §647(a), Jan. 28, 2008, 122 Stat. 160; Pub. L. 111-84, div. A, title X, §1073(a)(35), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111-383, div. A, title VI, §633, Jan. 7, 2011, 124 Stat. 4240; Pub. L. 112-239, div. A, title VI, §681(b), Jan. 2, 2013, 126 Stat. 1795; Pub. L. 113-66, div. A, title VI, §632, Dec. 26, 2013, 127 Stat. 785; Pub. L. 113-291, div. A, title VI, §625, Dec. 19, 2014, 128 Stat. 3405; Pub. L. 116-92, div. A, title VI, §604, Dec. 20, 2019, 133 Stat. 1424.)

HISTORICAL AND REVISION NOTES 1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1331(a)	10:1036a(a) (less last proviso). 10:1036d (1st sentence). 34:440i(a) (less last proviso). 34:440f (1st sentence).	June 29, 1948, ch. 708, §§302(a), (d), 305 (1st sentence), 62 Stat. 1087-1089; July 12, 1952, ch. 698, 66 Stat. 590.
1331(b)	10:1036a(d). 34:440i(d).	
1331(c)	10:1036a(a) (last proviso). 34:440i(a) (last proviso).	

In subsection (a), the words “is entitled” are substituted for the words “shall * * * be granted”. The words “in the status of a commissioned officer, warrant officer, flight officer, or enlisted person” and the references to reserve components are omitted as surplusage. Reference to the Army and the Air Force without component is inserted, since the words “reserve component”, as used in 10:1036a(a), include all members of the Army and the Air Force except members of the regular components thereof. The words “service, computed under section 1332 of this title” are substituted for the words “satisfactory Federal service” to make it clear that some service that is not normally covered by the latter term may be counted in determining rights to retired pay under this chapter. Section 311 of the source statute, which made title III of that act applicable to the Coast Guard, was expressly repealed by the Act of August 4, 1949, ch. 393, §20, 63 Stat. 565, the act which codified Title 14 of the United States Code. 14 U.S.C. 755(e) provides for Coast Guard Reservists the same retirement benefits as those prescribed by law for the Naval Reserve, and, for this purpose, confers upon the Secretary of the Treasury the same authority as that conferred upon the Secretary of the Navy, when the Coast Guard is operating under the Treasury Department. Accordingly, the revised chapter is made expressly applicable to the Coast Guard.

In subsection (c), the words “the Army without component or other category covered by section 1332(a)(1) of this title” are inserted, since the words “reserve

¹ See References in Text note below.

component”, as used in 10:1036a(a), also cover members without component and members of the other special categories listed. The words “annual training duty, or attendance at a school designated as a service school by law or by the Secretary of the appropriate military department” are inserted since the words “active Federal service”, as used in 10:1036a(a), also cover the additional service listed. The words “active duty” are substituted for the words “active Federal service” for uniformity.

1958 ACT

The change makes clear that in the determination of eligibility for retired pay for non-regular service, the service of a Regular serving in a temporary grade (that is, without component) may not be counted. See opinion of the Judge Advocate General of the Army, JAGA 1957/4463, May 13, 1957.

Editorial Notes

REFERENCES IN TEXT

Section 712 of title 14, referred to in subsec. (f)(2)(B)(iv), was redesignated section 3713 of title 14 by Pub. L. 115-282, title I, § 118(b), Dec. 4, 2018, 132 Stat. 4233, and references to section 712 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115-282 note preceding section 101 of Title 14, Coast Guard.

AMENDMENTS

2019—Subsec. (f)(2)(B)(i). Pub. L. 116-92 substituted “under section 12301(d) or 12304b of this title, or under a provision of law referred to in section 101(a)(13)(B)” for “under a provision of law referred to in section 101(a)(13)(B) or under section 12301(d)”.

2014—Subsec. (f)(2)(A). Pub. L. 113-291 inserted “, subject to subparagraph (C),” after “shall be reduced” and substituted “serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014” for “so performs in any fiscal year after such date, subject to subparagraph (C)”.

2013—Subsec. (f)(2)(B)(iv). Pub. L. 112-239 added cl. (iv).

Subsec. (f)(3). Pub. L. 113-66 added par. (3).

2011—Subsec. (f)(2)(B)(iii). Pub. L. 111-383 added cl. (iii).

2009—Subsec. (f)(2)(A). Pub. L. 111-84 substituted “January 28, 2008” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008”.

2008—Subsec. (a)(1). Pub. L. 110-181, § 647(a)(1), added par. (1) and struck out former par. (1) which read as follows: “is at least 60 years of age;”.

Subsec. (f). Pub. L. 110-181, § 647(a)(2), added subsec. (f).

2006—Subsec. (a)(3). Pub. L. 109-364 substituted “before April 25, 2005” for “before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005”.

2004—Subsec. (a)(3). Pub. L. 108-375 inserted after par. (3) designation “in the case of a person who completed the service requirements of paragraph (2) before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005,”.

2002—Subsec. (a)(3). Pub. L. 107-314, § 631(a), substituted “six years” for “eight years” and inserted before semicolon “, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight”.

Subsec. (b). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (f). Pub. L. 107-314, § 631(b), struck out subsec. (f) which read as follows: “In the case of a person who completes the service requirements of subsection (a)(2)

during the period beginning on October 5, 1994, and ending on December 31, 2001, the provisions of subsection (a)(3) shall be applied by substituting ‘the last six years’ for ‘the last eight years’.”

2000—Subsec. (f). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsec. (f). Pub. L. 105-261 substituted “September 30, 2001” for “September 30, 1999”.

1996—Subsec. (f). Pub. L. 104-106 substituted “October 5, 1994,” for “the date of the enactment of this subsection”.

1994—Pub. L. 103-337, § 1662(j)(1), renumbered section 1331 of this title as this section and amended text generally, making changes in style and in references to other sections.

Subsec. (f). Pub. L. 103-337, § 636, added subsec. (f) which read as follows: “In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting ‘the last six years’ for ‘the last eight years’.”

1989—Subsec. (d). Pub. L. 101-189 inserted “and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter,” after “this title”.

1983—Subsec. (c). Pub. L. 98-94 substituted “unless—
“(1) he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947; or

“(2) he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961, and before May 31, 1963, or after August 4, 1964, and before March 28, 1973.”,

for “unless he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947, or unless he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953”.

1980—Subsec. (b). Pub. L. 96-513, § 511(47)(A), substituted “Secretary of Transportation” for “Secretary of the Treasury”.

Subsec. (e). Pub. L. 96-513, § 511(47)(B), struck out “United States Code,” after “title 5,”.

1978—Subsec. (d). Pub. L. 95-397 inserted provisions requiring that notice include notification of elections available under the Survivor Benefit Plan and the effects thereof.

1968—Subsec. (e). Pub. L. 90-485 added subsec. (e).

1966—Subsec. (d). Pub. L. 89-652 added subsec. (d).

1958—Subsec. (a)(3). Pub. L. 85-861 struck out provisions which related to service as a member of the Army or the Air Force without component.

Subsec. (c). Pub. L. 85-704 made persons who performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, eligible for retired pay under this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-239 applicable to call or order to active duty authorized under section 3713 of Title 14, Coast Guard, after Dec. 31, 2011, and deemed to have been enacted on Dec. 31, 2011, for purposes of applying the amendment to this section, section 701 of this title, and section 5538 of Title 5, Government Organization and Employees, see section 681(d) of Pub. L. 112-239, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as a note under section 531 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-314, div. A, title VI, § 631(c), Dec. 2, 2002, 116 Stat. 2572, provided that: “The amendments made

by subsection (a) [amending this section] shall take effect on October 1, 2002. No benefit shall accrue to any person for any period before that date by reason of the enactment of those amendments.”

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1662(j)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title XIV, §1404(b)(3), Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101-510, div. A, title VI, §631(1), Nov. 5, 1990, 104 Stat. 1580, provided that: “The amendments made by paragraphs (1) and (2) [amending this section and section 3101 [now 5301] of Title 38, Veterans’ Benefits] shall take effect on April 1, 1992.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §924(b), Sept. 24, 1983, 97 Stat. 644, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to retired pay payable for months beginning after September 30, 1983, or the date of the enactment of this Act [Sept. 24, 1983], whichever is later.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-397 applicable to notifications after Sept. 30, 1978, see section 210(b) of Pub. L. 95-397, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-485 effective Aug. 13, 1968, see section 6 of Pub. L. 90-485, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY

Pub. L. 110-181, div. A, title VI, §647(c), Jan. 28, 2008, 122 Stat. 161, provided that: “With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section.”

RESERVE RETIREMENT SYSTEM; REPORT TO CONGRESS

Pub. L. 99-348, title III, §302, July 1, 1986, 100 Stat. 702, directed Secretary of Defense to submit to Congress,

not later than Feb. 1, 1988, a report on the retirement system provided under chapter 67 of this title for members of Armed Forces performing non-regular-service, including in the report any proposals of the Secretary for modifications to such system.

SURVIVOR ANNUITIES; EFFECTIVE DATE

Pub. L. 94-448, §1, Oct. 1, 1976, 90 Stat. 1499, provided: “That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code [section 1431 et seq. of this title], and under prior corresponding provisions of law, the provisions of section 1331(e) [now 12731(e)] of such title 10, relating to the date of entitlement to retired pay under chapter 67 [now 1223] of such title 10, shall be effective as of November 1, 1953.”

PAYMENT OF SURVIVOR ANNUITIES BENEFITS PRIOR TO OCTOBER 1, 1976

Pub. L. 94-448, §2, Oct. 1, 1976, 90 Stat. 1499, provided that: “No benefits shall be paid to any person for any period prior to the date of enactment of this Act [Oct. 1, 1976] as a result of the enactment of this Act.”

ENTITLEMENT TO RETIREMENT PAY AFTER OCTOBER 14, 1966; CONCLUSIVENESS

Notification of completion of requisite years of service as conclusive for entitlement to retirement pay if made after Oct. 14, 1966, see section 3 of Pub. L. 89-652, set out as a note under section 1406 of this title.

§ 12731a. Temporary special retirement qualification authority

(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

(B) after that date and before the end of the period described in subsection (b), completes 15 years of service computed under that section; and

(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on December 31, 2001.

(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section

4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2713).

(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard.

(Added Pub. L. 102-484, div. D, title XLIV, § 4417(a), Oct. 23, 1992, 106 Stat. 2716, § 1331a; amended Pub. L. 103-35, title II, § 201(f)(2), May 31, 1993, 107 Stat. 99; Pub. L. 103-160, div. A, title V, §§ 561(f)(4), 564(c), Nov. 30, 1993, 107 Stat. 1668, 1670; renumbered § 12731a and amended Pub. L. 103-337, div. A, title V, § 517, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2754, 2998, 3000; Pub. L. 104-106, div. A, title XV, § 1501(b)(21), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105-261, div. A, title V, § 561(n)(2), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, § 1 [[div. A], title V, § 571(n)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

Editorial Notes

REFERENCES IN TEXT

Section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 and section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (c)(2), (3), are sections 4414(a) and 4415(2) of Pub. L. 102-484, which are set out in a note under section 12681 of this title.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2000—Subsec. (a)(1)(B). Pub. L. 106-398, § 1 [[div. A], title V, § 571(n)(2)(A)], substituted “the end of the period described in subsection (b)” for “October 1, 2001”.

Subsec. (b). Pub. L. 106-398, § 1 [[div. A], title V, § 571(n)(2)(B)], substituted “December 31, 2001” for “October 1, 2001”.

1998—Subsec. (a)(1)(B), (b). Pub. L. 105-261 substituted “October 1, 2001” for “October 1, 1999”.

1996—Subsec. (c)(3). Pub. L. 104-106 inserted comma after “Defense Conversion”.

1994—Pub. L. 103-337, § 1662(j)(1), renumbered section 1331a of this title as this section and amended text generally, changing references to other sections.

Subsec. (c)(3). Pub. L. 103-337, § 517, added par. (3) which read as follows: “Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvest-

ment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.”

1993—Subsec. (a). Pub. L. 103-160, § 564(c)(1), substituted “Secretary concerned” for “Secretary of a military department” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 103-160, § 561(f)(4)(A), substituted “October 1, 1999” for “October 1, 1995”.

Subsec. (a)(2). Pub. L. 103-160, § 561(f)(4)(B), struck out “within one year after the date of the notification referred to in paragraph (1)” after “to the Secretary”.

Subsec. (b). Pub. L. 103-160, § 561(f)(4)(C), substituted “October 1, 1999” for “October 1, 1995”.

Pub. L. 103-35 substituted “October 23, 1992,” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993”.

Subsec. (c)(1). Pub. L. 103-160, § 564(c)(2), struck out “of the military department” after “The Secretary”.

Subsec. (e). Pub. L. 103-160, § 564(c)(3), inserted before period at end “and by the Secretary of Transportation with respect to the Coast Guard”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1662(j)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12731b. Special rule for members with physical disabilities not incurred in line of duty

(a) In the case of a member of the Selected Reserve of a reserve component who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability, the Secretary concerned may, for purposes of section 12731 of this title, determine to treat the member as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member has completed at least 15, and less than 20, years of service computed under section 12732 of this title.

(b) Notification under subsection (a) may not be made if—

(1) the disability was the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned; or

(2) the disability was incurred during a period of unauthorized absence.

(Added Pub. L. 106-65, div. A, title VI, § 653(b)(1), Oct. 5, 1999, 113 Stat. 666.)

§ 12732. Entitlement to retired pay: computation of years of service

(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

(1) The person's years of service, before July 1, 1949, in the following:

(A) The armed forces.

(B) The federally recognized National Guard before June 15, 1933.

(C) A federally recognized status in the National Guard before June 15, 1933.

(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

(E) The Navy Reserve Force.

(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

(G) The National Naval Volunteers.

(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

(ii) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

(A) One point for each day of—

(i) active service; or

(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

(C) Points at the rate of 15 a year for membership—

(i) in a reserve component of an armed force,

(ii) in the Army or the Air Force without component, or

(iii) in any other category covered by subsection (a)(1) except a regular component.

(D) Points credited for the year under section 2126(b) of this title.

(E) One point for each day on which funeral honors duty is performed for at least two hours under section 12503 of this title or section 115 of title 32, unless the duty is performed while in a status for which credit is provided under another subparagraph of this paragraph.

(F)(i) Subject to regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy, one point for each day of active service or one point for each drill or period of equivalent instruction that was prescribed by the Secretary concerned to be performed during the covered emergency period, if such person was prevented from performing such duty due to travel or duty restrictions imposed by the President, the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard.

(ii) A person may not be credited more than 35 points in a one-year period under this subparagraph.

(iii) In this subparagraph, the term "covered emergency period" means the period beginning on March 1, 2020, and ending on the day that is 60 days after the date on which the travel or duty restriction applicable to the person concerned is lifted.

(G) Points at the rate of 12 per period during which the member is on maternity leave.

For the purpose of clauses (A), (B), (C), (D), (E), (F), and (G), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental

Science Services Administration and in the Coast and Geodetic Survey).

(b) The following service may not be counted under subsection (a):

(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Navy Reserve or of the Marine Corps Reserve.

(3) Service in the inactive National Guard.

(4) Service in a non-federally recognized status in the National Guard.

(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

(8) Service in the screening performed pursuant to section 10149 of this title through electronic means, regardless of whether or not a stipend is paid the member concerned for such service under section 433a of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 102, § 1332; Pub. L. 85–861, § 33(a)(9), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 86–197, § 1(1)–(3), Aug. 25, 1959, 73 Stat. 425; Pub. L. 88–636, § 1, Oct. 8, 1964, 78 Stat. 1034; Pub. L. 93–545, § 1, Dec. 26, 1974, 88 Stat. 1741; Pub. L. 96–513, title V, § 511(48), Dec. 12, 1980, 94 Stat. 2924; renumbered § 12732 and amended Pub. L. 103–337, div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3000; Pub. L. 104–201, div. A, title V, § 543(b)(1), Sept. 23, 1996, 110 Stat. 2522; Pub. L. 106–65, div. A, title V, § 578(h)(1), Oct. 5, 1999, 113 Stat. 628; Pub. L. 109–163, div. A, title V, § 515(b)(1)(MM), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110–181, div. A, title VI, § 633(c), Jan. 28, 2008, 122 Stat. 155; Pub. L. 116–283, div. A, title V, § 516(a), title VI, § 602(b)(4), Jan. 1, 2021, 134 Stat. 3589, 3671.)

HISTORICAL AND REVISION NOTES 1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1332(a)	10:1036a(b). 10:1036a(c). 10:1036a(a). 10:1036e(b). 10:1036e(c) (less applicability to determination of retired pay). 10:1036e(d) (less applicability to determination of retired pay). 34:440i(b). 34:440i(c). 34:440m(a). 34:440m(b). 34:440m(c) (less applicability to determination of retired pay).	June 29, 1948, ch. 708, § 302(b), (c), 62 Stat. 1089; Sept. 7, 1949, ch. 547, §§ 1, 2, 63 Stat. 693. June 29, 1948, ch. 708, § 306 (less (c) and (d), as applicable to determination of retired pay), 62 Stat. 1088.

HISTORICAL AND REVISION NOTES—CONTINUED 1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1332(b)	34:440m(d) (less applicability to determination of retired pay). 10:1036e(e). 10:1036e(f). 34:440m(e). 34:440m(f).	

Subsection (a) consolidates the provisions of 10:1036a and 1036e(b)–(d), and 34:440i and 440m(b)–(d), relating to service that may be counted in determining eligibility for retired pay under this chapter. 10:1036e(a) and 34:440m(a) are omitted as covered by the enumeration of the service that may be counted for the purposes of the revised section.

In subsection (a)(1)(A)–(F), the requirement that the service must have been satisfactory is omitted as executed, since all service before July 1, 1949, has been found to have been satisfactory by the Secretaries concerned.

In subsection (a)(1)(A), the words “the armed forces” are substituted for clauses (1), (2), (5)–(7), (9), (10), and (13)–(16), of 10:1036e(c) and 34:440m(c), and so much of clause (8) of 10:1036e(c) and 34:440m(c) as relates to the Naval Reserve and the Naval Reserve Force as constituted after February 28, 1925, since the service covered by those clauses when added to service in the regular components, comprises all service in the armed forces.

In subsection (a)(1)(B)–(C), the words “June 15” are inserted to reflect the exact date of the change in National Guard status made by section 5 of the Act of June 15, 1933, ch. 87, 48 Stat. 155, which established the National Guard of the United States as a reserve component of the Army.

In subsection (a)(1)(D), 10:1036e(c)(8) (last 25 words), 10:1036e(c)(9) (last 22 words), 34:440m(c)(8) (last 25 words), and 34:440m(c)(9) (last 22 words) are omitted as covered by subsection (b)(5).

In subsection (a)(2)(A), the words “service that conformed to required standards and qualifications” are substituted for 10:1036e(b) and 34:440m(b). In clause (a)(2)(A), 10:1036e(d) and 34:440m(d), which make it clear that “active Federal service”, in the sense in which that term is used in 10:1036a–e and 34:440i–m, includes annual training duty and attendance at service schools, are omitted as covered by sections 101(22) and 101(24) of this title.

In subsection (a)(2)(A) and (B), specific reference is made to National Guard service to reflect the opinion of the Judge Advocate General of the Army (JAGA, 1956/1908, 13 Feb. 1956).

In subsection (a)(2)(C), the words “other than active Federal service” are omitted, since the points for membership are not reduced by active duty (see opinion of the Judge Advocate General of the Army (JAGA, 1953/2016, 3 Mar. 1953)).

In subsections (a) and (b), the words “active service” are substituted for the words “active Federal service” for uniformity of expression. In clause (5), the words “transferred thereto after completion of 16 or more years of active naval service” are omitted, since other authorized fleet reserve categories have not been used and authority for them is omitted from this revised title as unnecessary.

Subsection (b)(1)–(4) is inserted because of 10:1036e(e) and (f) and 34:440m(e) and (f), which state that the service enumerated in those clauses may not be considered in determining eligibility for retired pay under this chapter. Clause (5) is based on the exclusions in 34:440m(c)(8)–(9).

Subsection (b)(6) is inserted for clarity since 10:1036a and 34:440i were limited in applicability to service in the status of a “commissioned officer, warrant officer, flight officer, or enlisted person.”

1958 ACT

The word “full-time” is inserted for clarity. The other change reflects the opinion of the Judge Advocate General of the Army (JAGA 1956/1908, Feb. 13, 1956) that duty performed under section 92 of the National Defense Act, the source statute for section 502 of title 32, was creditable in determining entitlement to retired pay under section 302 of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1087), the source statute for section 1332 of title 10.

Editorial Notes

REFERENCES IN TEXT

Act of December 22, 1942, referred to in subsec. (a)(1)(I), is act Dec. 22, 1942, ch. 805, 56 Stat. 1072, which amended section 164 of former Title 10, Army and Air Force, and enacted provisions set out as notes under section 81 of former Title 10 and section 113 of former Title 37, Pay and Allowances, and was repealed as executed, by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

Women’s Medical Specialist Corps, referred to in subsec. (a)(1)(J)(ii), redesignated Army Medical Specialist Corps by Pub. L. 85-155, Aug. 21, 1957, 71 Stat. 375. See section 3070 of this title. See, also, act Aug. 9, 1955, ch. 654, 69 Stat. 579.

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 116-283, §602(b)(4)(B), substituted “(F), and (G)” for “and (F)” in concluding provisions.

Pub. L. 116-283, §516(a)(2), substituted “(E), and (F)” for “and (E)” in concluding provisions.

Subsec. (a)(2)(F). Pub. L. 116-283, §516(a)(1), added subpar. (F).

Subsec. (a)(2)(G). Pub. L. 116-283, §602(b)(4)(A), added subpar. (G).

2008—Subsec. (b)(8). Pub. L. 110-181 added par. (8).

2006—Subsecs. (a)(1)(E), (b)(2). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

1999—Subsec. (a)(2). Pub. L. 106-65 added subpar. (E) and substituted “, (D), and (E)” for “, and (D)” in concluding provisions.

1996—Subsec. (a)(2). Pub. L. 104-201 added cl. (D) and substituted “(C), and (D)” for “and (C)” in concluding provisions.

1994—Pub. L. 103-337 renumbered section 1332 of this title as this section, substituted “Entitlement to retired pay: computation of years of service” for “Computation of years of service in determining entitlement to retired pay” as section catchline, and amended text generally, making changes in style, references to other sections and Acts, and the service in the Public Health Service and the National Oceanic and Atmospheric Administration that may be included in the computation of years of service in subsec. (a).

1980—Subsec. (a)(4). Pub. L. 96-513 inserted provisions relating to applicability to service in National Oceanic and Atmospheric Administration and Environmental Science Services Administration.

1974—Subsec. (b)(7). Pub. L. 93-545 inserted “aviation midshipman,” after “flight officer,”.

1964—Subsec. (a)(3), (4). Pub. L. 88-636 added cls. (3) and (4).

1959—Subsec. (a). Pub. L. 86-197, §§(1), (2), redesignated cls. (D) to (F) as (E) to (G), and added cls. (D), (H), (I), and (J), and provisions requiring, for the purpose of cls. (A), (B), and (C), service in the National Guard to be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

Subsec. (b)(6), (7). Pub. L. 86-197, §1(3), added par. (6), redesignated former par. (6) as (7), and prohibited the

counting of service as a nurse, as an appointed aviation cadet, and that service described in cls. (I) and (J) of subsec. (a)(1) of this section.

1958—Subsec. (a). Pub. L. 85-861 substituted “full-time service under” for “service under”, and inserted reference to section 502 of this title in cl. (2)(A)(ii).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title VI, §602(c), Jan. 1, 2021, 134 Stat. 3671, provided that: “This section [amending this section, section 12733 of this title, and section 206 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply with respect to periods of maternity leave that commence on or after that date.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-636, §2, Oct. 8, 1964, 78 Stat. 1034, provided that: “The amendments made by this Act [amending this section] shall apply to any period before enactment of this Act [Oct. 8, 1964] during which the Commissioned Corps of the Public Health Service has had the status of a military service, and to any period before enactment of this Act during which commissioned personnel of the Coast and Geodetic Survey were transferred to the service and jurisdiction of a military department.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33 (g) of Pub. L. 85-861, set out as a note under section 101 of this title.

SAVINGS PROVISION

Pub. L. 86-197, §3, Aug. 25, 1959, 73 Stat. 426, provided that: “This Act [amending this section and sections 3683, 3926, 6324, 8683 and 8926 of this title and enacting provisions set out as notes under sections 1431 and 3441 of this title] does not deprive any person of any service credit to which he was entitled on the day before the effective date of this Act [Aug. 25, 1959].”

CREDIT FOR RETIRED PAY PURPOSES

Pub. L. 116-283, div. A, title VI, §602(b)(1)–(3), Jan. 1, 2021, 134 Stat. 3670, 3671, provided that:

“(1) IN GENERAL.—The period of maternity leave taken by a member of the reserve components of the Armed Forces in connection with the birth of a child shall count toward the member’s entitlement to retired pay, and in connection with the years of service used in computing retired pay, under chapter 1223 of title 10, United States Code, as 12 points.

“(2) SEPARATE CREDIT FOR EACH PERIOD OF LEAVE.—Separate crediting of points shall accrue to a member pursuant to this subsection for each period of maternity leave taken by the member in connection with a childbirth event.

“(3) WHEN CREDITED.—Points credited a member for a period of maternity leave pursuant to this subsection shall be credited in the year in which the period of maternity leave concerned commences.”

TRACKING SYSTEM AND RECOMMENDATIONS TO CONGRESS RELATING TO AWARD OF RETIREMENT POINTS

Pub. L. 104-201, div. A, title V, §531(b), (c), Sept. 23, 1996, 110 Stat. 2517, 2518, provided that:

“(b) TRACKING SYSTEM FOR AWARD OF RETIREMENT POINTS.—To better enable the Secretary of Defense and Congress to assess the cost and the effect on readiness of the amendment made by subsection (a) [amending section 12733 of this title] and of other potential changes to the Reserve retirement system under chapter 1223 of title 10, United States Code, the Secretary of Defense shall require the Secretary of each military department to implement a system to monitor the award of retirement points for purposes of that chapter by categories in accordance with the recommendation set forth in the August 1988 report of the Sixth Quadrennial Review of Military Compensation.

“(c) RECOMMENDATIONS TO CONGRESS.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act [Sept. 23, 1996], the recommendations of the Secretary with regard to the adoption of the following Reserve retirement initiatives recommended in the August 1988 report of the Sixth Quadrennial Review of Military Compensation:

“(1) Elimination of membership points under subparagraph (C) of section 12732(a)(2) of title 10, United States Code, in conjunction with a decrease from 50 to 35 in the number of points required for a satisfactory year under that section.

“(2) Limitation to 60 in any year on the number of points that may be credited under subparagraph (B) of section 12732(a)(2) of such title at two points per day.

“(3) Limitation to 360 in any year on the total number of retirement points countable for purposes of section 12733 of such title.”

COAST GUARD WOMEN'S RESERVE; CONSTRUCTIVE SERVICE CREDIT; RETIREMENT BENEFITS; RETROACTIVE PAY

Pub. L. 87-482, June 12, 1962, 76 Stat. 95, provided: “That any person who was a member of the Coast Guard Women's Reserve and who served on active duty therein for at least one year prior to July 25, 1947; who was separated therefrom under honorable conditions; and who also had membership therein for any period between November 1, 1949, and July 1, 1956, shall be deemed to have served on inactive duty with the Coast Guard Women's Reserve from July 25, 1947, to November 1, 1949, in the grade or rating satisfactorily held on active duty prior to July 25, 1947.

“SEC. 2. Creditable constructive service for a person qualified under section 1 hereof shall be applied when providing retirement benefits under the Army and Air Force Vitalization and Retirement Equalization Act of 1948, as amended, or any other Act under which the individual may be entitled to retirement from the Armed Forces.

“SEC. 3. Additional pay accruing to any person by virtue of increased creditable service resulting from the inclusion of constructive service creditable by application of section 1 hereof shall not be made for active or inactive duty for which pay is authorized by competent authority which is performed prior to the first day of the calendar quarter next succeeding the calendar quarter in which this Act becomes effective.”

ADDITIONAL CLERICAL SERVICE CREDITABLE UNDER THIS CHAPTER

Pub. L. 85-861, § 15, Sept. 2, 1958, 72 Stat. 1558, provided that:

“(a) Notwithstanding section 1332(b)(6) [now 12732(b)(7)] of title 10, United States Code, a person is entitled to count his service as an Army field clerk or as a field clerk, Quartermaster Corps, as active service in determining his entitlement to retired pay under chapter 67 [now 1223] of title 10, United States Code, and in computing his retired pay under that chapter.

“(b) notwithstanding section 1332(b)(6) [now 12732(b)(7)] of title 10, United States Code, a warrant officer is entitled to count classified service as an Army headquarters clerk or as a clerk of the Army Quartermaster Corps that he performed under any law in effect

before August 29, 1916, as active service in determining his entitlement to retired pay under chapter 67 [now 1223] of title 10, United States Code, and in computing his retired pay under that chapter.”

§ 12733. Computation of retired pay: computation of years of service

For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

(1) The person's days of active service.

(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

(3) One day for each point credited to the person under clause (B), (C), (D), or (F) of section 12732(a)(2) of this title, but not more than—

(A) 60 days in any one year of service before the year of service that includes September 23, 1996;

(B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes October 30, 2000;

(C) 90 days in the year of service that includes October 30, 2000, and in any subsequent year of service before the year of service that includes October 30, 2007; and

(D) 130 days in the year of service that includes October 30, 2007, and in any subsequent year of service.

(4) One day for each point credited to the person under subparagraph (E) of section 12732(a)(2) of this title.

(5) One day for each point credited to the person under subparagraph (F) of section 12732(a)(2) of this title.

(6) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

(Aug. 10, 1956, ch. 1041, 70A Stat. 103, §1333; Pub. L. 85-861, §33(a)(10), Sept. 2, 1958, 72 Stat. 1565; renumbered §12733 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3002; Pub. L. 104-201, div. A, title V, §§531(a), 543(b)(2), Sept. 23, 1996, 110 Stat. 2517, 2522; Pub. L. 105-85, div. A, title X, §1073(a)(67), (c)(4), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106-65, div. A, title V, §578(h)(2), Oct. 5, 1999, 113 Stat. 628; Pub. L. 106-398, §1 [div. A], title VI, §652], Oct. 30, 2000, 114 Stat. 1654, 1654A-163; Pub. L. 107-107, div. A, title X, §1048(c)(16), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 110-181, div. A, title VI, §648, Jan. 28, 2008, 122 Stat. 161; Pub. L. 116-283, div. A, title V, §516(b), title VI, §602(b)(5), Jan. 1, 2021, 134 Stat. 3589, 3671.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1333	10:1036b (less 1st 91 words, and less 1st proviso). 10:1036e(c) (as applicable to determination of retired pay). 10:1036e(d) (as applicable to determination of retired pay). 34:440j (less 1st 91 words, and less 1st proviso). 34:440m(c) (as applicable to determination of retired pay). 34:440m(d) (as applicable to determination of retired pay).	June 29, 1948, ch. 708, §§303 (less 1st 91 words, and less 1st proviso), 306 ((c) and (d), as applicable to determination of retired pay), 62 Stat. 1088–1090; Sept. 7, 1949, ch. 547, §3, 63 Stat. 693.

The revised section consolidates provisions of 10:1036b and 1036e, and 34:440j and 440m, relating to the years of service that may be counted in determining retired pay for persons entitled to that pay under this chapter.

Clause (1) is substituted for 10:1036b(i). In clause (3), the words “and proportionately for each fraction of a year” are inserted to make clear that parts of years must be counted. 10:1036e(d) and 34:440m(d) are omitted as covered by sections 101(22) and 101(24) of this title.

1958 ACT

The change is necessary so that active service and service described in section 1332(a)(2)(A)(ii) that was performed on or before July 1, 1949, may be counted in computing retired pay, as provided by the source law, section 303(i) of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1088) and in accordance with the opinion of the Judge Advocate General of the Army (JAGA 1956/1908, Feb. 13, 1956).

Editorial Notes

AMENDMENTS

2021—Par. (3). Pub. L. 116–283, §516(b), substituted “(D), or (F)” for “or (D)” in introductory provisions.

Pars. (5), (6). Pub. L. 116–283, §602(b)(5), added par. (5) and redesignated former par. (5) as (6).

2008—Par. (3)(B) to (D). Pub. L. 110–181 struck out “and” at end of subpar. (B), substituted “before the year of service that includes October 30, 2007; and” for period at end of subpar. (C), and added subpar. (D).

2001—Par. (3)(B). Pub. L. 107–107, §1048(c)(16)(A), substituted “October 30, 2000” for “the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

Par. (3)(C). Pub. L. 107–107, §1048(c)(16)(B), substituted “October 30, 2000,” for “the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

2000—Par. (3). Pub. L. 106–398 substituted “but not more than—” and subpars. (A) to (C) for “but not more than 60 days in any one year of service before the year of service that includes September 23, 1996, and not more than 75 days in any subsequent year of service.”

1999—Pars. (4), (5). Pub. L. 106–65 added par. (4) and redesignated former par. (4) as (5).

1997—Par. (3). Pub. L. 105–85, §1073(c)(4), made technical correction to directory language of Pub. L. 104–201, §531(a). See 1996 Amendment note below.

Pub. L. 105–85, §1073(a)(67), inserted a comma after “(B)” and substituted “that includes September 23, 1996,” for “in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs”.

1996—Par. (3). Pub. L. 104–201, §543(b)(2), substituted “(C), or (D)” for “or (C)”.

Pub. L. 104–201, §531(a), as amended by Pub. L. 105–85, §1073(c)(4), inserted before period at end “of service before the year of service in which the date of the enact-

ment of the National Defense Authorization Act for Fiscal Year 1997 occurs and not more than 75 days in any subsequent year of service”.

1994—Pub. L. 103–337 renumbered section 1333 of this title as this section, substituted “Computation of retired pay: computation of years of service” for “Computation of years of service in computing retired pay” as section catchline, and amended text generally, changing style and references to other sections.

1958—Pub. L. 85–861 added cls. (1) and (2), struck out former cl. (1) which permitted the addition of the days of service credited under section 1332(a)(2)(A) of this title, and redesignated former cls. (2) and (3) as (3) and (4), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 602(b)(5) of Pub. L. 116–283 effective, and applicable with respect to periods of maternity leave that commence on or after, Jan. 1, 2021, see section 602(c) of Pub. L. 116–283, set out as a note under section 12732 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1073(c), Nov. 18, 1997, 111 Stat. 1904, provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

§ 12734. Time not creditable toward years of service

(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1334; Pub. L. 87–651, title I, §108, Sept. 7, 1962, 76 Stat. 509; renumbered §12734 and amended Pub. L. 103–337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1334(a)	10:1036c (last sentence, as applicable to inactive status). 10:1036g (last 41 words of 2d sentence). 34:440k (last sentence, as applicable to inactive status). 34:440o (last 41 words of 2d sentence). 50:931(b) (less 1st 16 words).	June 29, 1948, ch. 708, §§304 (last sentence), 308 (last 41 words of 2d sentence), 62 Stat. 1088, 1090. July 9, 1952, ch. 608, §211(b) (less 1st 16 words), 66 Stat. 485.
1334(b)	10:1036c (last sentence, less applicability to inactive status). 34:440k (last sentence, less applicability to inactive status).	

Subsection (a) is substituted for 10:1036c (1st 17 words of last sentence, as applicable to inactive status), 10:1036g (last 41 words of 2d sentence), 34:440k (last 17 words of last sentence, as applicable to inactive status), and 34:440o (last 41 words of 2d sentence). 10:1036c (proviso of last sentence, as applicable to inactive status) and 34:440k (proviso of last sentence, as applicable to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) are omitted as surplusage.

In subsection (b), 10:1036c (proviso of last sentence, less applicability to inactive status) and 34:440k (proviso of last sentence, less applicability to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) are omitted as surplusage.

1962 ACT

The change conforms section 1334(b) of title 10 to the source law, the last sentence of section 304 of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1089). Section 305 makes the change retroactive to August 10, 1956, the date of repeal of the source law by the original military codification act of that date.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 1334 of this title as this section and amended text generally, changing one section reference.

1962—Subsec. (b). Pub. L. 87-651 substituted “retirement (without pay) for failure to conform to standards and qualifications prescribed under section 1001 of this title may not be credited in a computation” for “retirement or transfer to the Retired Reserve may not be credited in any computation.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 305 of Pub. L. 87-651 provided that: “Section 108 of this Act [amending this section] is effective as of August 10, 1956, for all purposes. Section 304 of this Act is effective as of February 6, 1959.”

§ 12735. Inactive status list

(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, § 1335; renumbered § 12735 and amended Pub. L. 103-337,

div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1335(a)	10:1036g (1st sentence). 34:440o (1st sentence).	June 29, 1948, ch. 708, § 308 (less last 41 words of 2d sentence), 62 Stat. 1090.
1335(b)	10:1036g (2d sentence, less last 41 words). 34:440o (2d sentence, less last 41 words).	
1335(c)	10:1036g (less 1st and 2d sentences). 34:440o (less 1st and 2d sentences).	

In subsection (a), the words “would be eligible but for the fact that he is under 60 years of age” are substituted for the words “has not attained the age of sixty years but is eligible in all other respects”. The words “for members of his armed force, other than members of a regular component” are substituted for the words “for the reserve components of the Army of the United States or Air Force of the United States”, since the source statute applied to all members except members of the regular components. The words “as has been, or” and “by law or regulation” are omitted as surplusage.

In subsection (b), the words “after the effective date of such transfer” are omitted as surplusage.

In subsection (c), 10:1036g (last 32 words of last sentence) and 34:440o (last 32 words of last sentence) are omitted as surplusage.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 1335 of this title as this section and amended text generally, making changes in style.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12736. Service credited for retired pay benefits not excluded for other benefits

No period of service included wholly or partly in determining a person’s right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, § 1336; renumbered § 12736 and amended Pub. L. 103-337, div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1336	10:1036d (less 1st sentence). 34:440l (less 1st sentence).	June 29, 1948, ch. 708, § 305 (less 1st sentence), 62 Stat. 1089.

Editorial Notes**AMENDMENTS**

1994—Pub. L. 103-337 renumbered section 1336 of this title as this section and restated catchline and text without change.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12737. Limitation on active duty

A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104, §1337; renumbered §12737 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1337	10:1036h, 34:440p.	June 29, 1948, ch. 708, §309, 62 Stat. 1090.

10:1036h (1st sentence) and 34:440p (1st sentence) are omitted as surplusage. The words “member of the armed forces” are substituted for the word “person”, since only a member may be “ordered to active duty”.

Editorial Notes**AMENDMENTS**

1994—Pub. L. 103-337 renumbered section 1337 of this title as this section and amended text generally, substituting “the member” for “him”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12738. Limitations on revocation of retired pay

(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person’s eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

(Added Pub. L. 89-652, §2(1), Oct. 14, 1966, 80 Stat. 902, §1406; renumbered §1338 and amended Pub. L. 99-348, title I, §104(a), July 1, 1986, 100 Stat. 686; renumbered §12738 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, 3003.)

Editorial Notes**AMENDMENTS**

1994—Pub. L. 103-337 renumbered section 1338 of this title as this section and amended text generally, making changes in style and references to other sections.

1986—Pub. L. 99-348 renumbered section 1406 of this title as this section, designated first sentence as subsec. (a) and substituted “this chapter” for “chapter 67 of this title” in two places, and designated second sentence as subsec. (b).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

ENTITLEMENT TO RETIREMENT PAY AFTER OCTOBER 14, 1966; CONCLUSIVENESS

Pub. L. 89-652, §3, Oct. 14, 1966, 80 Stat. 902, provided that: “Notwithstanding section 1406 [now 12738] of title 10, United States Code, as added by this Act—

“(1) the granting of retired pay to a person under chapter 67 [now 1223] of that title is conclusive as to that person’s entitlement to such pay only if the payment of that retired pay is begun after the effective date of this Act [Oct. 14, 1966]; and

“(2) a notification that a person has completed the years of service required for eligibility for retired pay under chapter 67 [now 1223] of that title is conclusive as to the person’s subsequent entitlement to such pay only if the notification is made after the effective date of this Act.”

§ 12739. Computation of retired pay

(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

(b) If a person entitled to retired pay under this chapter has been credited by the Secretary concerned with extraordinary heroism in the line of duty and if the highest grade held satisfactorily by that person at any time in the armed forces is an enlisted grade, the person’s retired pay shall be increased by 10 percent of the amount determined under subsection (a). The Secretary’s determination as to extraordinary heroism is conclusive for all purposes.

(c)(1) Except as provided in paragraph (2), the total amount of the monthly retired pay computed under subsections (a) and (b) may not exceed 75 percent of the retired pay base upon which the computation is based.

(2) In the case of a person who retires after December 31, 2006, with more than 30 years of service credited to that person under section 12733 of this title, the total amount of the monthly re-

tired pay computed under subsections (a) and (b) may not exceed the sum of—

(A) 75 percent of the retired pay base upon which the computation is based; and

(B) the product of—

(i) the retired pay base upon which the computation is based; and

(ii) 2½ percent of the years of service credited to that person under section 12733 of this title, for service under conditions authorized for purposes of this paragraph during a period designated by the Secretary of Defense for purposes of this paragraph.

(d) Amounts computed under this section, if not a multiple of \$1, shall be rounded down to the next lower multiple of \$1.

(e)(1) If a member of the Retired Reserve is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to the recomputation under this section of the retired pay of the member.

(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

(B) completes at least one year of service in such position; and

(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.

(f) MODERNIZED RETIREMENT SYSTEM.—

(1) REDUCED MULTIPLIER FOR FULL TSP MEMBERS.—Notwithstanding subsection (a) or (c), in the case of a person who first performs reserve component service on or after January 1, 2018, after not having performed regular or reserve component service on or before that date, or a person who makes the election described in paragraph (2) (referred to as a “full TSP member”)—

(A) subsection (a)(2) shall be applied by substituting “2 percent” for “2½ percent”;

(B) subparagraph (A) of subsection (c)(2) shall be applied by substituting “60 percent” for “75 percent”; and

(C) subparagraph (B)(ii) of such subsection shall be applied by substituting “2 percent” for “2½ percent”.

(2) ELECTION TO PARTICIPATE IN MODERNIZED RETIREMENT SYSTEM.—

(A) IN GENERAL.—Pursuant to subparagraph (B), a person performing reserve component service on December 31, 2017, who has performed fewer than 12 years of service as of December 31, 2017 (as computed in accordance with section 12733 of this title), may elect, in exchange for the reduced multipliers described in paragraph (1) for purposes of calculating the retired pay of the person, to receive Thrift Savings Plan contributions pursuant to section 8440e(e) of title 5.

(B) ELECTION PERIOD.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), a person described in subparagraph (A) may make the election described in that subparagraph during the period that begins on January 1, 2018, and ends on December 31, 2018.

(ii) HARDSHIP EXTENSION.—The Secretary concerned may extend the election period described in clause (i) for a person who experiences a hardship as determined by the Secretary concerned.

(iii) PERSONS EXPERIENCING BREAK IN SERVICE.—A person returning to reserve component service after a break in reserve component service in which falls the election period specified in clause (i) shall make the election described in subparagraph (A) within 30 days after the date of the reentry into service of the person.

(C) NO RETROACTIVE CONTRIBUTIONS PURSUANT TO ELECTION.—Thrift Savings Plan contributions may not be made for a person making an election pursuant to subparagraph (A) for any pay period beginning before the date of the person’s election under that subparagraph by reason of the person’s election.

(3) REGULATIONS.—The Secretary concerned shall prescribe regulations to implement this subsection.

(Added Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 3004; amended Pub. L. 107-314, div. A, title VI, §632(a), (b), Dec. 2, 2002, 116 Stat. 2572; Pub. L. 109-364, div. A, title VI, §642(b), Oct. 17, 2006, 120 Stat. 2259; Pub. L. 111-84, div. A, title VI, §642(a), Oct. 28, 2009, 123 Stat. 2365; Pub. L. 114-92, div. A, title VI, §631(b), Nov. 25, 2015, 129 Stat. 843; Pub. L. 115-91, div. A, title VI, §623(a), Dec. 12, 2017, 131 Stat. 1428.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in formula 3 of the table in section 1401(a) of this title, prior to amendment by Pub. L. 103-337, §1662(j)(2).

AMENDMENTS

2017—Subsec. (f)(2)(B)(iii). Pub. L. 115-91 substituted “within 30 days after the date of the reentry” for “on the date of the reentry”.

2015—Subsec. (f). Pub. L. 114-92 added subsec. (f).

2009—Subsec. (e). Pub. L. 111-84 added subsec. (e).

2006—Subsec. (c). Pub. L. 109-364 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the” for “The”, and added par. (2).

2002—Subsec. (b). Pub. L. 107-314, §632(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107-314, §632(a)(1), (b), redesignated subsec. (b) as (c) and substituted “total amount of the monthly retired pay computed under subsections (a) and (b)” for “amount computed under subsection (a)”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107-314, §632(a)(1), redesignated subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title VI, §623(b), Dec. 12, 2017, 131 Stat. 1429, provided that: “The amendment made by subsection (a) [amending this section] shall take effect

on January 1, 2018, immediately after the coming into effect of the amendment made by section 631(b) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 843) [amending this section], to which the amendment made by subsection (a) relates.”

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114-92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VI, § 632(c), Dec. 2, 2002, 116 Stat. 2572, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 2002, and shall apply with respect to retired pay for months beginning on or after that date.”

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12740. Eligibility: denial upon certain punitive discharges or dismissals

A person who—

(1) is convicted of an offense under the Uniform Code of Military Justice (chapter 47 of this title) and whose sentence includes death; or

(2) is separated pursuant to sentence of a court-martial with a dishonorable discharge, a bad conduct discharge, or (in the case of an officer) a dismissal,

is not eligible for retired pay under this chapter.

(Added Pub. L. 104-106, div. A, title VI, § 632(a)(1), Feb. 10, 1996, 110 Stat. 365.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 104-106, div. A, title VI, § 632(b), Feb. 10, 1996, 110 Stat. 365, provided that: “Section 12740 of title 10, United States Code, as added by subsection (a), shall apply with respect to court-martial sentences adjudged after the date of the enactment of this Act [Feb. 10, 1996].”

§ 12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement

(a) **AUTHORITY TO ELECT TO RECEIVE RESERVE RETIRED PAY.**—(1) Notwithstanding the requirement in paragraph (4) of section 12731(a) of this title that a person may not receive retired pay under this chapter when the person is entitled, under any other provision of law, to retired pay or retainer pay, a person may elect to receive retired pay under this chapter, instead of receiving retired or retainer pay under chapter 65, 741, 841, or 941 of this title, if the person—

(A) satisfies the requirements specified in paragraphs (1) and (2) of such section for entitlement to retired pay under this chapter;

(B) served in an active status in the Selected Reserve of the Ready Reserve after becoming eligible for retirement under chapter 65, 741, 841, or 941 of this title (without regard to

whether the person actually retired or received retired or retainer pay under one of those chapters); and

(C) completed not less than two years of satisfactory service (as determined by the Secretary concerned) in such active status (excluding any period of active service).

(2) The Secretary concerned may reduce the minimum two-year service requirement specified in paragraph (1)(C) in the case of a person who—

(A) completed at least one year of service in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general; and

(B) failed to complete the minimum years of service solely because the appointment of the person to such position was terminated or vacated as described in section 324(b) of title 32.

(b) **ACTIONS TO EFFECTUATE ELECTION.**—As of the effective date of an election made by a person under subsection (a), the Secretary concerned shall—

(1) terminate the eligibility of the person to retire under chapter 65, 741, 841, or 941 of this title, if the person is not already retired under one of those chapters, and terminate entitlement of the person to retired or retainer pay under one of those chapters, if the person was already receiving retired or retainer pay under one of those chapters; and

(2) in the case of a reserve commissioned officer, transfer the officer to the Retired Reserve.

(c) **TIME AND FORM OF ELECTION.**—An election under subsection (a) shall be made within such time and in such form as the Secretary concerned requires.

(d) **EFFECTIVE DATE OF ELECTION.**—An election made by a person under subsection (a) shall be effective—

(1) except as provided in paragraph (2)(B), as of the date on which the person attains the eligibility age applicable to the person under section 12731(f) of this title, if the Secretary concerned receives the election in accordance with this section within 180 days after that date; or

(2) on the first day of the first month that begins after the date on which the Secretary concerned receives the election in accordance with this section, if—

(A) the date of the receipt of the election is more than 180 days after the date on which the person attains the eligibility age applicable to the person under such section; or

(B) the person retires from service in an active status within that 180-day period.

(Added Pub. L. 106-398, § 1 [[div. A], title VI, § 653(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-164; amended Pub. L. 107-107, div. A, title X, § 1048(a)(31), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 109-364, div. A, title X, § 1071(a)(41), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111-84, div. A, title VI, § 643(a)-(c), (e)(1), Oct. 28, 2009, 123 Stat. 2366, 2367; Pub. L. 115-232, div. A, title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1840.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (a)(1). Pub. L. 115-232 substituted “chapter 65, 741, 841, or 941” for “chapter 65, 367, 571, or 867” in introductory provisions and in subpar. (B).

Subsec. (b)(1). Pub. L. 115-232 substituted “chapter 65, 741, 841, or 941” for “chapter 65, 367, 571, or 867”.

2009—Pub. L. 111-84, § 643(e)(1), substituted “Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement” for “Retirement from active reserve service performed after regular retirement” in section catchline.

Subsec. (a). Pub. L. 111-84, § 643(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a) ELECTION OF RESERVE RETIRED PAY.—A person who, after becoming entitled to retired or retainer pay under chapter 65, 367, 571, or 867 of this title, serves in an active status in a reserve component is entitled to retired pay under this chapter if—

“(1) the person would, but for paragraphs (3) and (4) of section 12731(a) of this title, otherwise be entitled to retired pay under this chapter;

“(2) the person elects under this section to receive retired pay under this chapter; and

“(3) the person’s service in an active status after having become entitled to retired or retainer pay under that chapter is determined by the Secretary concerned to have been satisfactory.”

Subsec. (b)(1). Pub. L. 111-84, § 643(b), added par. (1) and struck out former par. (1) which read as follows: “terminate the person’s entitlement to retired or retainer pay under the applicable chapter of this title referred to in subsection (a); and”.

Subsec. (d)(1). Pub. L. 111-84, § 643(c)(1), substituted “attains the eligibility age applicable to the person under section 12731(f) of this title” for “attains 60 years of age”.

Subsec. (d)(2)(A). Pub. L. 111-84, § 643(c)(2), substituted “attains the eligibility age applicable to the person under such section” for “attains 60 years of age”.

2006—Subsecs. (c), (d). Pub. L. 109-364 substituted “subsection (a)” for “subsection (b)”.

2001—Subsec. (a)(2). Pub. L. 107-107 substituted “receive” for “received”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

Pub. L. 106-398, § 1 [[div. A], title VI, § 653(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165, provided that: “Section 12741 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply with respect to retired pay payable for months beginning on or after that effective date.”

CHAPTER 1225—RETIRED GRADE

Sec.	
12771.	Reserve officers: grade on transfer to Retired Reserve.
12772.	Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
12773.	Limitation on accrual of increased pay or benefits.
12774.	Retired lists.

§ 12771. Reserve officers: grade on transfer to Retired Reserve

(a) GRADE ON TRANSFER.—Unless entitled to a higher grade under another provision of law, a

reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370a of this title, in the armed force in which he is serving on the date of transfer.

(b) EFFECT OF SUBSEQUENT RECALL TO ACTIVE STATUS.—(1) If a member of the Retired Reserve who is a commissioned officer is recalled to an active status in the Selected Reserve of the Ready Reserve under section 10145(d) of this title and completes not less than two years of service in such active status, the member is entitled to an adjustment in the retired grade of the member in the manner provided in section 1370a of this title.

(2) The Secretary concerned may reduce the two-year service requirement specified in paragraph (1) in the case of a member who—

(A) is recalled to serve in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general;

(B) completes at least one year of service in such position; and

(C) fails to complete the minimum two years of service solely because the appointment of the member to such position is terminated or vacated as described in section 324(b) of title 32.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(k)(1), Oct. 5, 1994, 108 Stat. 3005; amended Pub. L. 111-84, div. A, title VI, § 642(b), Oct. 28, 2009, 123 Stat. 2365; Pub. L. 116-283, div. A, title V, § 508(b)(5), Jan. 1, 2021, 134 Stat. 3585.)

Editorial Notes**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1374(b), (f) of this title, prior to repeal by Pub. L. 103-337, § 1662(k)(2).

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, § 508(b)(5)(A), substituted “section 1370a of this title” for “section 1370(d)”.

Subsec. (b)(1). Pub. L. 116-283, § 508(b)(5)(B), substituted “section 1370a” for “section 1370(d)”.

2009—Pub. L. 111-84 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section