

[AMENDMENTS RELATING TO SPACE FORCE  
ORGANIZATION AND MANAGEMENT]

**TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND  
MANAGEMENT**

**Subtitle D—Space Force**

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**Subtitle D—Space Force**

**SEC. 931. VICE CHIEF OF SPACE OPERATIONS.**

Chapter 908 of title 10, United States Code, is amended—

(1) by redesignating sections 9083, 9084, 9085, and 9086 as sections 9084, 9085, 9086, and 9087, respectively; and

(2) by inserting after section 9082 the following new section:

**“§ 9083. Vice Chief of Space Operations**

“(a) APPOINTMENT.—There is a Vice Chief of Space Operations, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Space Force.

“(b) GRADE.—The Vice Chief of Space Operations, while so serving, has the grade of general without vacating the permanent grade of the officer.

1           “(c) DUTIES.—The Vice Chief of Space Operations has such authorities and duties with  
2 respect to the Space Force as the Chief of Space Operations, with the approval of the Secretary  
3 of the Air Force, may delegate to or prescribe for the Vice Chief of Space Operations. Orders  
4 issued by the Vice Chief of Space Operations in performing such duties have the same effect as  
5 those issued by the Chief of Space Operations.

6           “(d) VACANCY IN OFFICE OF CHIEF OF SPACE OPERATIONS.—When there is a vacancy in  
7 the office of Chief of Space Operations or during the absence or disability of the Chief of Space  
8 Operations—

9                   “(1) the Vice Chief of Space Operations shall perform the duties of the Chief of  
10 Space Operations until a successor is appointed or the absence or disability ceases; or

11                   “(2) if there is a vacancy in the office of the Vice Chief of Space Operations or  
12 the Vice Chief of Space Operations is absent or disabled, unless the President directs  
13 otherwise, the most senior officer of the Space Force in the Space Staff who is not absent  
14 or disabled and who is not restricted in performance of duty shall perform the duties of  
15 the Chief of Space Operations until a successor to the Chief of Space Operations or the  
16 Vice Chief of Space Operations is appointed or until the absence or disability of the Chief  
17 of Space Operations or Vice Chief of Space Operations ceases, whichever occurs first.”.

18 **SEC. 932. ANNUAL END-STRENGTH AUTHORIZATION FOR THE SPACE FORCE.**

19           (a) END STRENGTH AUTHORIZATION BY LAW FOR SPACE FORCE TO BE A SINGLE NUMBER  
20 FOR MEMBERS IN SPACE FORCE ACTIVE STATUS.—

21                   (1) REQUIREMENT.—Subsection (a) of section 115 of title 10, United States Code,  
22 is amended by adding at the end the following new paragraph:

1                   “(3) The end strength for the Space Force for members in space force active  
2 status.”.

3                   (2) CONFORMING AMENDMENTS.—Such subsection is further amended—

4                               (A) in the subsection heading, by striking “AND SELECTED RESERVE” and  
5 inserting “, SELECTED RESERVE, AND SPACE FORCE”; and

6                               (B) in paragraph (1), by striking “each of the armed forces (other than the  
7 Coast Guard)” and inserting “the Army, Navy, Air Force, and Marine Corps”.

8                   (b) CORRESPONDING LIMITATION ON APPROPRIATIONS—Subsection (c) of such section is  
9 amended—

10                               (1) by striking “or” at the end of paragraph (2);

11                               (2) by redesignating paragraph (3) as paragraph (4); and

12                               (3) by inserting after paragraph (2) the following new paragraph (3):

13                               “(3) the use of members of the Space Force in space force active status unless the  
14 end strength for the Space Force for that fiscal year for members in space force active  
15 status has been authorized by law; or”.

16                   (c) AUTHORITY FOR VARIANCES OF END STRENGTH.—

17                               (1) SECRETARY OF DEFENSE.—Subsection (f) of such section is amended—

18                                       (A) in the subsection heading, by striking “AND SELECTED RESERVE” and  
19 inserting “, SELECTED RESERVE, AND SPACE FORCE”; and

20                                       (B) in paragraph (1), by inserting “or (a)(3)” after “subsection (a)(1)(A)”.

21                               (2) SECRETARY OF THE AIR FORCE.—Subsection (g) of such section is amended—

22                                       (A) in the subsection heading, by striking “AND SELECTED RESERVE” and  
23 inserting “, SELECTED RESERVE, AND SPACE FORCE”; and

1 (B) in paragraph (1)(A), by inserting “or (a)(3)” after “subsection  
2 (a)(1)(A)”.

3 (3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall  
4 take effect upon the date specified under paragraph (2) of section 1736(a) of the  
5 Space Force Personnel Management Act (title XVII of Public Law 118–31; 10 U.S.C.  
6 20001 note) for the expiration of the authority provided by paragraph (1) of that  
7 section.

8 (4) CONFORMING CROSS-REFERENCE AMENDMENTS TO SFPMA.—Section  
9 1736(a)(1) of the Space Force Personnel Management Act (title XVII of Public Law  
10 118–31; 10 U.S.C. 20001 note) is amended by striking “section 115(a)(1)(A)” in  
11 subparagraphs (A) and (B) and inserting “section 115(a)(3)”.

12 **SEC. 933. INCLUSION OF SPACE FORCE PROFESSIONAL MILITARY EDUCATION**  
13 **PROGRAMS IN DEFINITIONS OF SENIOR AND INTERMEDIATE**  
14 **LEVEL SERVICE SCHOOLS AND AS COVERED PROGRAMS FOR**  
15 **COPYRIGHT PURPOSES.**

16 (a) JOINT PROFESSIONAL MILITARY EDUCATION.—Section 2151(b) of title 10, United  
17 States Code, is amended—

18 (1) by adding at the end of paragraph (1) the following new subparagraph:

19 “(E) the Space Force Senior Level Education Program.” ; and

20 (2) by adding at the end of paragraph (2) the following new subparagraph:

21 “(E) the Space Force Intermediate Level Education Program.”.

22 (b) BUDGET REQUESTS FOR PROFESSIONAL MILITARY EDUCATION.—Section 2162(d) of  
23 such title is amended by adding at the end the following new paragraphs:

1 “(9) The Space Force Senior Level Education Program.

2 “(10) The Space Force Intermediate Level Education Program.”.

3 (c) COPYRIGHT STATUS OF CERTAIN WORKS PRODUCED BY CIVILIAN FACULTY OF SPACE  
4 FORCE EDUCATION PROGRAMS.—

5 (1) INCLUSION OF SPACE FORCE EDUCATION PROGRAMS IN COVERAGE OF CIVILIAN  
6 FACULTY OF DOD EDUCATIONAL INSTITUTIONS.—Paragraph (2) of subsection (d) of  
7 section 105 of title 17, United States Code, is amended—

8 (A) in the matter preceding subparagraph (A), by striking “institution” and  
9 inserting “Department of Defense institution or program”;

10 (B) by striking subparagraph (L) and both subparagraphs (M);

11 (C) by redesignating subparagraph (K) as subparagraph (M); and

12 (D) by inserting after subparagraph (J) the following new subparagraphs:

13 “(K) Space Force Senior Level Education program.

14 “(L) Space Force Intermediate Level Education Program.”.

15 (2) CONFORMING AND CLARIFYING AMENDMENTS.—Subsection (c) of such section  
16 is amended—

17 (A) in paragraph (1), by striking “covered institution described in  
18 subparagraphs (A) through (L) of subsection (d)(2)” and inserting “covered  
19 Department of Defense institution or program”;

20 (B) by redesignating paragraph (2) as paragraph (4) and in that paragraph  
21 striking “the covered institution described in subsection (d)(2)(M)” and inserting  
22 “the National Intelligence University”; and

23 (C) by inserting after paragraph (1) the following new paragraphs:

1           “(2) SECRETARY OF HOMELAND SECURITY AUTHORITY.—With respect to a covered author  
2 who produces a covered work in the course of employment at the United States Coast Guard  
3 Academy, the Secretary of Homeland Security may direct the covered author to provide the  
4 Federal Government with an irrevocable, royalty-free, world-wide, nonexclusive license to  
5 reproduce, distribute, perform, or display such covered work for purposes of the United States  
6 Government.

7           “(3) SECRETARY OF TRANSPORTATION AUTHORITY.—With respect to a covered author  
8 who produces a covered work in the course of employment at the United States Merchant Marine  
9 Academy, the Secretary of Transportation may direct the covered author to provide the Federal  
10 Government with an irrevocable, royalty-free, world-wide, nonexclusive license to reproduce,  
11 distribute, perform, or display such covered work for purposes of the United States  
12 Government.”.

13           (3) REPEAL OF UNUSED DEFINITION.—Subsection (d) of such section is further  
14 amended—

15                           (A) by striking paragraph (3); and

16                           (B) by redesignating paragraph (4) as paragraph (3).

17 **SEC. 934. AUTHORIZED STRENGTH: SPACE FORCE GENERAL OFFICERS ON**

18 **ACTIVE DUTY AND NON-SUSTAINED DUTY.**

19           (a) DISTRIBUTION OF COMMISSIONED OFFICERS ON ACTIVE DUTY IN GENERAL

20 OFFICER GRADES.—Section 525 of title 10, United States Code, is amended—

21                           (1) in subsection (a)—

22                                   (A) in the matter preceding paragraph (1), by inserting “or the Space Force  
23 officer list” after “officer on the active duty list”;

1 (B) in paragraph (5)—

2 (i) in subparagraph (A), by striking “officers in the grade of  
3 general” and inserting “officers on sustained duty orders in the grade of  
4 general”;

5 (ii) in subparagraph (B), by striking “officers in a grade above” and  
6 inserting “officers on sustained duty orders in a grade above”; and

7 (iii) in subparagraph (C), by striking “officers in the grade” and  
8 inserting “officers on sustained duty orders in the grade”; and

9 (2) in subsection (g), by adding at the end the following new paragraph:

10 “(3) The limitations of this section do not apply to a Space Force general officer  
11 serving in a Space Force active status but not on sustained duty orders, and who is on  
12 active duty for a period in excess of 365 days but not to exceed three years. Unless  
13 authorized by the Secretary of Defense, the number of Space Force general officers  
14 covered by this subsection and not serving in a joint duty assignment for purposes of  
15 chapter 38 of this title may not exceed 5. Not later than 30 days after authorizing more  
16 than 5 Space Force general officers covered by this subsection, the Secretary of Defense  
17 shall provide the notification required in accordance with paragraph (2).”.

18 (b) AUTHORIZED STRENGTH OF SPACE FORCE GENERAL OFFICERS ON ACTIVE DUTY.—

19 Section 526 of such title is amended—

20 (1) in subsection (c)—

21 (A) in the subsection heading, by inserting “and of the Space Force” after  
22 “Components”;

1 (B) in paragraph (1), by inserting “or of the Space Force” after “a reserve  
2 component”;

3 (C) in paragraph (2), by adding at the end the following new  
4 subparagraph:

5 “(D) The Secretary of the Air Force may authorize not more than two of the  
6 general officers authorized to serve in the Space Force under section 20110 of this title to  
7 serve on active duty for a period of at least 180 days and not longer than 365 days.”; and

8 (D) in paragraph (3)(A), by inserting “, or a Space Force general officer in  
9 a Space Force active status not on sustained duty,” after “a reserve component”;  
10 and

11 (2) in subsection (d)—

12 (A) by striking “or” at the end of paragraph (1);

13 (B) by striking the period at the end of paragraph (2) and inserting “; or”;

14 and

15 (C) by adding at the end the following new paragraph:

16 “(3) a Space Force officer in the grade of brigadier general or above who is  
17 pending transition off of sustained duty orders, but only during the 60-day period  
18 preceding the end date of such orders.”.

19 (c) **STRENGTH IN GRADE: SPACE FORCE GENERAL OFFICERS IN A SPACE FORCE ACTIVE**  
20 **STATUS NOT ON SUSTAINED DUTY.**—Chapter 2003 of such title is amended by adding at the end  
21 the following new section:

22 **“§20110. Strength in grade: Space Force general officers in a Space Force active status, not**  
23 **on sustained duty**



1           “(a) AUTHORIZED STRENGTH.—The authorized strength of general officers in the Space  
2 Force serving in a Space Force active status but not on sustained duty is five.

3           “(b) EXCLUSIONS.—The following Space Force general officers shall not be counted for  
4 purposes of this section:

5                   “(1) Those counted under section 526 of this title.

6                   “(2) Those serving in a joint duty assignment for purposes of chapter 38 of this  
7 title, except that the number of officers who may be excluded under this paragraph may  
8 not exceed two.

9           “(c) PERMANENT GRADE.—A Space Force general officer may not be reduced in  
10 permanent grade because of a reduction in the number authorized under subsection (a).

11           “(d) TEMPORARY EXCLUSION.—The limitations of subsection (a) do not apply to an  
12 officer released from a joint duty assignment or other non-joint active duty assignment, but only  
13 during the 60-day period beginning on the date the officer departs the joint duty or other active  
14 duty assignment. The Secretary of Defense may authorize the Secretary of the Air Force to  
15 extend the 60-day period by an additional 120 days, except that not more than three Space Force  
16 officers may be covered by an extension under this subsection at the same time.”.

17 **SEC. 935. EXTENSION OF CERTAIN EXPIRING AUTHORITIES.**

18           (a) AUTHORITY TO PAY ONE-TIME UNIFORM ALLOWANCE FOR OFFICERS WHO TRANSFER  
19 TO THE SPACE FORCE.—Subsection (d)(1) of section 606 of the William M. (Mac) Thornberry  
20 National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 37 U.S.C. 416  
21 note) is amended by striking “ending on September 30, 2025” and inserting “ending on the last  
22 day of the transition period as defined in section 1731 of the National Defense Authorization Act  
23 for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 20001 note)”.

1 (b) AUTHORITY TO VARY NUMBER OF SPACE FORCE OFFICERS CONSIDERED FOR  
2 PROMOTION TO MAJOR GENERAL.—Subsection (b) of section 503 of the National Defense  
3 Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1680) is amended by  
4 striking “shall terminate on December 31, 2024” and inserting “shall terminate on December 31,  
5 2025”.

6 **SEC. 936. CONTINUITY OF COVERAGE UNDER CERTAIN PROVISIONS OF TITLE**  
7 **18, UNITED STATES CODE.**

8 (a) SECTION 202.—Section 202(a) of title 18, United States Code, is amended—

9 (1) in the third sentence (beginning “Notwithstanding section”), by inserting “an  
10 officer of the Space Force not serving on sustained duty pursuant to section 20105 of title  
11 10,” after “of the Armed Forces,”; and

12 (2) in the fourth and fifth sentences, by striking “A Reserve” and all that follows  
13 through “who is” and inserting “Such an officer who is”.

14 (b) SECTION 209.—Section 209(h) of such title is amended by inserting “, or a member of  
15 the Space Force,” after “a member of the reserve components of the Armed Forces”.

16 (c) CROSS-REFERENCE AMENDMENT.—Section 202(a) of such title, as amended by  
17 subsection (a), is further amended by striking “section 29(c) and (d) of the Act of August 10,  
18 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d))” and inserting “sections 502, 2105(d), and 5534 of  
19 title 5”.

20 **SEC. 937. CONTINUITY OF COVERAGE UNDER CERTAIN PROVISIONS OF TITLE**  
21 **5, UNITED STATES CODE.**

22 (a) MILITARY LEAVE FOR FEDERAL CIVILIAN EMPLOYEES.—Section 6323 of title 5,  
23 United States Code, is amended—

1 (1) in subsection (a)(1), by striking “as a Reserve of the armed forces or member  
2 of the National Guard” and inserting “as a Reserve of the armed forces, a member of the  
3 National Guard, or a member of the Space Force in space force active status (as defined  
4 in section 101(e)(1) of title 10) and not on sustained duty under section 20105 of title  
5 10”; and

6 (2) in subsection (b)(1), by inserting before the semicolon at the end the  
7 following: “or is a member of the Space Force in space force active status (as defined in  
8 section 101(e)(1) of title 10) and not on sustained duty under section 20105 of title 10”.

9 (b) CLERICAL AMENDMENTS.—

10 (1) SECTION HEADING.—The heading of such section is amended to read as  
11 follows:

12 **“§6323. Military leave: Reserves, National Guard members, and certain members of the**  
13 **Space Force”.**

14 (2) TABLE OF SECTIONS.—The item relating to such section in the table of sections  
15 at the beginning of chapter 63 of such title is amended to read as follows:

“6323. Military leave: Reserves, National Guard members, and certain members of the Space Force.”.

16 **SEC. 938. APPLICABILITY TO THE SPACE FORCE OF EXISTING EXECUTIVE**  
17 **ORDERS.**

18 (a) PREVIOUS EXECUTIVE ORDERS RELATING TO REMOVAL OF OFFICERS.—Section  
19 20241(f) of title 10, United States Code, is amended by striking “section 14310” and inserting  
20 “section 629 or 14310”.

21 (b) PREVIOUS EXECUTIVE ORDERS RELATING TO PROMOTIONS.— Section 20239 of such  
22 title is amended by adding at the end the following new subsection:

1 “(g) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by  
2 the President by Executive order, any Executive order issued before December 22, 2023, relating  
3 to functions of the President under section 624(c) of this title shall apply in the same manner to  
4 functions of the President under this section.”.

5 (c) PREVIOUS EXECUTIVE ORDERS RELATING TO SPECIAL SELECTION BOARD AND  
6 CORRECTION OF ERRORS.—The second section 20251 of such title is amended by adding at the  
7 end the following new subsection:

8 “(k) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by  
9 the President by Executive order, any Executive order issued before December 22, 2023, relating  
10 to functions of the President under sections 618 and 628 of this title shall apply in the same  
11 manner to functions of the President under this section.”.

12 (d) PREVIOUS EXECUTIVE ORDERS RELATING TO VOLUNTARY RETIREMENT FOR LENGTH  
13 OF SERVICE.—Section 20601 of such title is amended by adding at the end the following new  
14 subsection:

15 “(d) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by  
16 the President by Executive order, any Executive order issued before December 22, 2023, relating  
17 to functions of the President under section 9318 of this title shall apply in the same manner to  
18 functions of the President under this section.”.

19 **SEC. 939. TECHNICAL AND CONFORMING AMENDMENTS.**

20 (a) APPOINTMENT OF CHAIRMAN; GRADE AND RANK.—Section 152(c) of title 10, United  
21 States Code, is amended—

22 (1) by striking “general, in the case” and inserting “general or, in the case”; and

1 (2) by striking “or, in the case of an officer of the Space Force, the equivalent  
2 grade,”.

3 (b) JOINT REQUIREMENTS OVERSIGHT COUNCIL.—Section 181(c)(1)(F) of such title is  
4 amended by striking “in the grade equivalent to the grade of general in the Army, Air Force, or  
5 Marine Corps, or admiral in the Navy” and inserting “in the grade of general”.

6 (c) ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS.—

7 (1) APPOINTMENTS.—Section 531(a) of such title is amended—

8 (A) in paragraph (1), by striking “and Regular Marine Corps in the grades  
9 of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, and in the  
10 equivalent grades in the Space Force” and inserting “Regular Marine Corps, and  
11 Space Force, and in the grades of ensign, lieutenant (junior grade), and lieutenant  
12 in the Regular Navy”; and

13 (B) in paragraph (2), by striking “and Regular Marine Corps in the grades  
14 of lieutenant commander, commander, and captain in the Regular Navy, and in  
15 the equivalent grades in the Space Force” and inserting “Regular Marine Corps,  
16 and Space Force, and in the grades of lieutenant commander, commander, and  
17 captain in the Regular Navy”.

18 (2) SERVICE CREDIT UPON ORIGINAL APPOINTMENT AS A COMMISSIONED  
19 OFFICER.—Section 533(b)(2) of such title is amended—

20 (A) by striking “, or Marine Corps” and inserting “Marine Corps, or Space  
21 Force or”; and

22 (B) by striking “, or an equivalent grade in the Space Force”.

23 (d) SELECTION BOARDS.—

1 (1) CONVENING OF SELECTION BOARDS.—Section 611(a) of such title is amended  
2 by striking “or Marine Corps” and inserting “Marine Corps, or Space Force”.

3 (2) JQO MEMBER REQUIRED FOR BOARDS TO CONSIDER OFFICERS WHO ARE JOINT  
4 QUALIFIED OFFICERS.—Subsection (c)(3)(A) of section 612 of such title is amended by  
5 inserting “or the Space Force” after “of the Marine Corps”.

6 (3) SPECIAL SELECTION REVIEW BOARDS.—Section 628a(a)(1)(A) of such title is  
7 amended by striking “, rear admiral in the Navy, or an equivalent grade in the Space  
8 Force” and inserting “or rear admiral in the Navy”.

9 (e) PROMOTION ZONE DEFINITION.—Section 645(1)(A) of such title is amended by  
10 striking “and Marine Corps,” in both places it occurs and inserting “Marine Corps, and Space  
11 Force,”.

12 (f) RETIRED GRADE.—

13 (1) REGULAR COMMISSIONED OFFICERS.—Section 1370 of such title is amended in  
14 subsection (g) by striking “or Marine Corps, rear admiral in the Navy, or an equivalent  
15 grade in the Space Force” and inserting “Marine Corps, or Space Force, or rear admiral in  
16 the Navy”.

17 (2) OFFICERS ENTITLED TO RETIRED PAY FOR NON-REGULAR SERVICE.—Section  
18 1370a of such title is amended—

19 (A) in subsection (d)(1), by striking “or Marine Corps” each place it  
20 appears and inserting “Marine Corps, or Space Force”; and

21 (B) in subsection (h), by striking “or Marine Corps” and inserting “Marine  
22 Corps, or Space Force”.

1 (g) FINANCIAL ASSISTANCE PROGRAM FOR SPECIALLY SELECTED MEMBERS.—Section  
2 2107 of such title is amended—

3 (1) in subsection (a), by striking “Marine Corps,, as the case may be” and  
4 inserting “Marine Corps, or Space Force, as the case may be”; and

5 (2) in subsection (d), by striking “lieutenant, ensign, or an equivalent grade in the  
6 Space Force,” and inserting “lieutenant or ensign,”

7 (h) DESIGNATION OF SPACE SYSTEMS COMMAND AS A FIELD COMMAND OF THE UNITED  
8 STATES SPACE FORCE—Section 9016(b)(6)(B)(iv)(II) of such title is amended by striking “Space  
9 and Missile Systems Center” and inserting “Space Systems Command”.

10 (i) CHIEF OF SPACE OPERATIONS.—Section 9082 of such title is amended—

11 (1) in subsection (a), by striking “, flag, or equivalent” each place it appears; and

12 (2) in subsection (b), by striking “grade in the Space Force equivalent to the grade  
13 of general in the Army, Air Force, and Marine Corps, or admiral in the Navy” and  
14 inserting “grade of general”.

15 (j) AWARDS AND DECORATIONS.—

16 (1) DISTINGUISHED FLYING CROSS.—Section 9279(a) of such title is amended—

17 (A) by adding “or Space Force” after “Air Force”; and

18 (B) by adding “or space” after “aerial”.

19 (2) AIRMAN’S MEDAL.—Section 9280(a)(1) of such title is amended by adding “or  
20 Space Force” after “Air Force”.

21 (k) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—Section 9414b(a)(2)(B) of  
22 such title is amended by striking “or the equivalent grade in the Space Force”.

23 (l) TITLE OF CHIEF MASTER SERGEANT OF THE SPACE FORCE.—

1 (1) RETIRED BASE PAY.—Section 1406(i)(3)(B)(v) of title 10, United States Code,  
2 is amended by striking “The senior enlisted advisor of the Space Force” and inserting  
3 “Chief Master Sergeant of the Space Force”.

4 (2) BASIC PAY RATE.—Footnote 2 of the table titled “ENLISTED MEMBERS” in  
5 section 601(c) of the John Warner National Defense Authorization Act for Fiscal Year  
6 2007 (Public Law 109–364; 37 U.S.C. 1009 note) is amended by striking “the senior  
7 enlisted advisor of the Space Force” and inserting “Chief Master Sergeant of the Space  
8 Force”.

9 (3) PAY OF SENIOR ENLISTED MEMBERS.—Section 210(c)(5) of title 37, United  
10 States Code, is amended by striking “The senior enlisted advisor of the Space Force” and  
11 inserting “The Chief Master Sergeant of the Space Force”.

12 (4) PERSONAL MONEY ALLOWANCE.—Section 414(b) of title 37, United States  
13 Code, is amended by striking “the senior enlisted advisor of the Space Force” and  
14 inserting “the Chief Master Sergeant of the Space Force”.

15 (m) Section 20106(d) of title 10, United States Code, is amended by striking “pertaining”.

16 (n) Section 20211(b) of such title is amended by striking “20238(a)(4)(A)” and inserting  
17 “20239(c)(4)(A)”.

18 (o) Section 20212(a)(1) of such title is amended by striking “Secretary of Air Force” and  
19 inserting “Secretary of the Air Force”.

20 (p) Section 20216(c) of such title is amended by striking “20214(g)” and inserting  
21 “20215(g)”.

22 (q) Section 20231(b) of such title is amended—

23 (1) in paragraph (4), by striking “20238(a)(4)” and inserting “20239(c)(4)”; and



1 (2) in paragraph (5), by striking “20232” and inserting “section 20232”.

2 (r) Section 20231(c)(2)(E) of such title is amended by striking “Secretary Air Force” and  
3 inserting “Secretary of the Air Force”.

4 (s) Section 20234(b) of such title is amended by inserting “to” after “pursuant”.

5 (t) Section 20239 of such title, as amended by section 938(b), is further amended—  
6 (1) in subsection (c)(2), by striking “subparagraph (A)” and inserting “paragraph  
7 (1)”; and  
8 (2) in subsection (e)(2), by striking “subparagraph (c)(ii) of such section” and  
9 inserting “section 741(d)(4)(c)(ii)”.

10 (u) Section 20243 of such section is amended by striking “as a”.

11 (v) The table of sections at the beginning of subchapter IV of chapter 2005 of such title is  
12 amended by striking the second “20251” and inserting “20252”.

13 (w) The first section 20251 of such title is amended—  
14 (1) in subsection (a)—  
15 (A) in the matter preceding paragraph (1), by striking “section 631” and  
16 inserting “sections 631”; and  
17 (B) in paragraph (2), by striking “section 14201” and inserting “sections  
18 14101”; and  
19 (2) in subsection (d)(1), by striking “14502(b)” and inserting “14501(b).

20 (x) The second section 20251 of such title, as amended by section 938(c), is further  
21 amended—  
22 (1) in the section heading, by striking “20251” and inserting “20252”;  
23 (2) in subsection (b)(2)—

- 1 (A) by striking “((1)” and inserting “(1)”; and
- 2 (B) by striking “sch” and inserting “such”;
- 3 (3) in subsection (b)(4), by striking “recommend for promotion a officer” and
- 4 inserting “recommend for promotion an officer”; and
- 5 (4) in subsection (f)(2), by striking “which of officer” and inserting “which an
- 6 officer”.
- 7 (y) The table of sections at the beginning of chapter 2009 of such title is amended by
- 8 striking the second “20404” and inserting “20405”.
- 9 (z) Section 20401(b) of such title is amended by inserting “, and” after “1174(b)”.
- 10 (aa) Section 20502 of such title is amended in the heading of each of subsections (c) and
- 11 (d) by striking “Than” and inserting “That”.
- 12 (bb) Section 1737(b)(3)(A) of the National Defense Authorization Act for Fiscal Year
- 13 2024 (Public Law 118–31; 10 U.S.C. 20001 note) is amended by striking “20213” and inserting
- 14 “20212”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

#### **SEC. 931. VICE CHIEF OF SPACE OPERATIONS.**

This section would add a new section to title 10, United States Code, to provide a statutory charter for the Vice Chief of Space Operations (VCSO), including statutory specification of the grade of general for the VCSO. The charter for the VCSO would be parallel to that of the other Department of Defense military service Vice Chiefs. *See* 10 U.S.C. 7034 (Vice Chief of Staff of the Army), 8035 (Vice Chief of Naval Operations), 8044 (Assistant Commandant of the Marine Corps), and 9034 (Vice Chief of Staff of the Air Force). *See also* 14 U.S.C. 304, providing a statutory charter, with specification of the grade of admiral, for the Vice Commandant of the Coast Guard.

While the Space Force currently has a Vice Chief of Space Operations, the position was established by the Secretary of the Air Force by administrative action. The functions of the

position were also prescribed by the Secretary of the Air Force, and the specification of the grade of general for the VCSO was designated under section 601 of title 10, United States Code.

Since the position, the functions of the position (including being successor to the Chief of Space Operations (CSO)), and the grade of the position are all determined by executive branch policy rather than by law and could be changed at any time, the VCSO position as currently constituted inherently does not have the stability of the counterpart positions in the other services, each of which is created by law.

Recent events have demonstrated the importance of having a clearly defined succession in the event of a vacancy in a service chief position or the disability or absence of a service chief. Current law provides that clarity for the other services. *See* 10 U.S.C. 7034(d), 8035(d), 8044(d), and 9034(d). The Space Force should have the same unambiguous statutory clarity for use when there is a vacancy in the office of CSO or during the absence or disability of the CSO.

### **SEC. 932. ANNUAL END-STRENGTH AUTHORIZATION FOR THE SPACE FORCE.**

Enactment of the Space Force Personnel Management Act (SFPMA) will dictate a change in—

(1) how the annual end-strength level for Space Force personnel is set forth in the annual NDAA (previously section 401(5)), and

(2) how the statutory requirement for that annual authorization is stated in title 10 (currently 10 U.S.C. 115(a)(1)(A)).

The core principle of the SFPMA — that the Space Force will be managed through a single personnel management system — means that the Space Force authorization included in the annual NDAA end-strength authorizations for members of the Armed Forces should be a single number covering members of the Space Force in both full-time billets and part-time billets.

This proposal would amend section 115 of title 10, United States Code, to state the requirement for annual end strength authorization for the Space Force as a single number for members of the Space Force in space force active status.

Below is a corresponding proposed format for the Space Force end strength authorization for the FY2025 NDAA.

#### **SEC. 4XX. END STRENGTH FOR THE SPACE FORCE.**

The Space Force is authorized a strength for Space Force members in space force active status as of September 30, 2025, of \_\_\_\_\_.

### **SEC. 933. INCLUSION OF SPACE FORCE PROFESSIONAL MILITARY EDUCATION PROGRAMS IN DEFINITIONS OF SENIOR AND INTERMEDIATE LEVEL SERVICE SCHOOLS AND AS COVERED PROGRAMS FOR COPYRIGHT PURPOSES.**

This section would amend section 2151 of title 10, United States Code, to include the Space Force's Senior Level Education and Intermediate Level Education programs in the definitions of senior-level and intermediate-level service schools. This is necessary because only the senior-level and intermediate-level schools listed in such section 2151 may be designated and certified by the Secretary of Defense to provide Joint Professional Military Education instruction.

Additionally, this section would amend section 2162 of such title to include the Senior and Intermediate Level Education programs in the list of Professional Military Education

Schools for which the Secretary of Defense is required to promulgate a uniform cost accounting system for use in preparing budget requests.

Finally, this section would amend section 107 of title 17, United States Code, to allow the Secretary of Defense to direct the author of a covered work who is an employee of the Space Force's Intermediate and Senior Level Education Programs to provide the Federal Government with a license to reproduce, distribute, perform, or display such covered work for purposes of the United States Government. This amendment would treat Space Force employees the same as employees of the other Service schools and the service academies.

#### **SEC. 934. AUTHORIZED STRENGTH: SPACE FORCE GENERAL OFFICERS ON NON-SUSTAINED DUTY**

This section would amend sections 525 and 526 of title 10, United States Code, to incorporate the Space Force into existing exemptions for reserve component general officers. With the enactment of the SFPMA, space professionals within the Air Force Reserve (AFR) will begin transferring into the Space Force. Five general officers currently serving in the AFR will transfer into the Space Force. All five of the AFR general officers that transfer to the Space Force will serve in a space force active status but will not be on sustained duty orders. The provisions of 10 U.S.C. 525 and 526 place limits on the number of general officers for each of the Armed Forces that are permitted to serve on active duty and establish the grade distribution of those general officers. Per 10 U.S.C. 526, the Space Force is currently limited to 21 general officers serving on active duty. Per 10 U.S.C. 525(a)(5), of those 21 general officers, the Space Force is authorized two officers in the grade of general, seven lieutenant generals, and six major generals.

Subsection (g) of section 525 and subsection (c) of section 526 exempt certain reserve component general officers from these limits, but the subsections will be inapplicable to any Space Force general officers because there is no Space Force reserve component. Unless the Space Force is added to the exemptions in sections 525 and 526, the AFR general officers that transfer to the Space Force will be unable to come on to active duty – for any reason – because it may cause the Space Force to exceed the limitations in section 525(a). The language in this section of the proposal would resolve this problem.

Subsection (a) of this section would amend 10 U.S.C. 525(a) to recognize that the space force officer list is equivalent to an active duty list for the other services. It would also add Space Force to the exemption in section 525(g) for reserve component general officers serving on active duty for more than 365 days but less than 3 years.

Subsection (b) of this section would amend 10 U.S.C. 526 by incorporating the Space Force into the existing exclusions for certain reserve component general officers.

Subsection (c) of this section would amend chapter 2003 of title 10 by inserting a new section 20110 at the end of the chapter, to specifically authorize the Space Force to have no more than five general officers in a space force active status but not serving on sustained duty. This new section is similar in purpose to 10 USC 12004, which authorizes the number of reserve general officers for each Armed Force.

#### **SEC. 935. EXTENSION OF CERTAIN EXPIRING AUTHORITIES.**

This section would extend two expiring authorities.

Subsection (a) of this section would extend the authority for the Secretary of the Air Force to provide a one-time uniform allowance for officers who transfer to the Space Force from any of the other Armed Forces through September 30, 2027, which is the end of the transition period for the transfer to the Space Force of Air Force Reserve members established in the Space Force Personnel Management Act (SFPMA). Section 606 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) (FY2021 NDAA) created a one-time uniform allowance for officers transferring into the Space Force through September 30, 2022. This authority was extended to September 30, 2023, by section 616 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263) and to September 30, 2025, by section 628 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 137 Stat. 295). In the practical execution of transferring officers to the Space Force, the initial wave of transfers will continue through the end of FY2024. In order to avoid any inequities between transferring officers based solely on the timing of their transfer, the Department of the Air Force needs to extend the expiration of the one-time uniform allowance through the end of the SFPMA transition period, which is September 30, 2027.

Subsection (b) of this section would extend through calendar year 2025 the authority provided by section 503 of the FY2022 NDAA (Public Law 117–81) to vary the number of Space Force officers considered for promotion to major general. Section 503 limits the number of Space Force officers that may be recommended by a selection board for promotion to major general to 95 percent of “the total number of brigadier generals eligible for consideration by the board” rather than 95 percent of “the number of officers included in the promotion zone,” which is the limitation established in section 616(d) of title 10, United States Code. This authority to vary the number of officers considered by the selection board is necessary to ensure that the Space Force is able to promote the necessary number of major generals.

In previous years this has been a particular concern. In calendar year 2020 the Department of the Air Force was not able to promote the number of general officers needed to fill emerging requirements for the stand-up of the United States Space Force. Specifically, for the major general board, two officers were eligible in the newly established Space Force competitive category and there was a requirement to promote two officers. This was not permitted in accordance with section 616(d) of title 10. Therefore, the Department delayed the promotion board to increase the number of eligible officers to three, thus being able to select two on the promotion board. Delaying the board also delayed the confirmation of the officers selected and thus delayed critical fills for service and joint positions.

Including all brigadier generals “eligible for consideration” expands the size of the pool from which no more than 95 percent of the officers may be recommended for promotion by the board and will permit the Space Force to promote the necessary number of officers to major general.

## **SEC. 936. CONTINUITY OF COVERAGE UNDER CERTAIN PROVISIONS OF TITLE 38, UNITED STATES CODE.**

Subsections (a) and (b) of this section would make conforming amendments to sections 202 and 209 of title 18, United States Code, to ensure that the coverage of the ethics provisions of title 18 with respect to members of the Space Force continues unchanged. Since the Space

Force does not have Reserve officers or a reserve component, the proposed amendments will clarify that the provisions applicable to Reserve members will apply similarly to Space Force personnel who are performing the same category of duty.

Subsection (c) of this section would amend 18 U.S.C. 202(a) to update a long-standing obsolete cross-reference with the correct current cross-reference, in accordance with the “References in Text” note in the U.S. Code under 18 U.S.C. 202.

#### **SEC. 937. CONTINUITY OF COVERAGE UNDER CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.**

This section would make conforming amendments to section 6323 of title 5, United States Code, to ensure that the coverage of the leave provisions of title 5 with respect to members of the Space Force continues unchanged. Since the Space Force does not have Reserve officers or a reserve component, the proposed amendments will clarify that the provisions applicable to Reserve members will apply similarly to Space Force personnel who are performing the same category of duty.

#### **SEC. 938. APPLICABILITY TO THE SPACE FORCE OF EXISTING EXECUTIVE ORDERS**

This section would ensure that existing executive orders delegating to the Secretary of Defense certain functions of the President related to officer personnel management established in subtitle A of title 10, United States Code, remain applicable to similar provisions in subtitle F of such title. Specifically, this section would add a new subsection to section 20239 stating that the existing Executive Order that delegates to the Secretary of Defense the Presidential function set out in section 624(c) of title 10 related to appointing first lieutenants and captains applies in the same way to the Presidential function set out in section 20239(c). It adds similar language to section 20252, which establishes Presidential functions related to special selection boards. Similarly, it adds a new subsection to section 20601 so that the executive order delegating to the Secretary of Defense the Presidential function in section 8918 [which is now 9318] to approve the request of a commissioned officer of the Army or the Air Force to retire after at least 30 years of service applies in the same way to the Presidential function set out in section 20601(b) for Space Force officers. Finally, it adds a reference to section 629 to section 20241(f), which already incorporates the executive order concerning the delegation of the Presidential function in section 14310 to remove reserve officers from a promotion list to any grade below brigadier general.

#### **SEC. 939. TECHNICAL AND CONFORMING AMENDMENTS.**

This section would make technical and conforming amendments to various provisions of existing law to incorporate Space Force officer grade names, insert “Chief Master Sergeant of the Space Force” vice “senior enlisted advisor of the Space Force,” add “Space Force” to a military personnel authority revision in the FY2021 NDAA that inadvertently left out the Space Force, make technical corrections to military decoration and awards provisions to make Space Force members eligible for the Distinguished Flying Cross and Airman’s Medal, and update the

designation of the Space and Missile Systems Center to Space Systems Command. It also corrects grammatical and cross-referencing errors in subtitle F of title 10, United States Code, as enacted in the FY2024 NDAA (Public Law 118–31).

**Resource Information:** This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2025 President’s Budget.

**Changes to Existing Law:** This proposal would amend titles 5, 10, 17, 18, and 37 of the United States Code, and various National Defense Authorization Acts, as follows:

## TITLE 5, UNITED STATES CODE

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### CHAPTER 63-LEAVE

#### SUBCHAPTER II-OTHER PAID LEAVE

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#### **§6323. Military leave; ~~Reserves and National Guardsmen; Reserves, National Guard members, and certain members of the Space Force~~**

(a)(1) Subject to paragraph (2) of this subsection, an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss in pay, time, or performance or efficiency rating for active duty, inactive-duty training (as defined in section 101 of title 37), funeral honors duty (as described in section 12503 of title 10 and section 115 of title 32), or engaging in field or coast defense training under sections 502–505 of title 32 ~~as a Reserve of the armed forces or member of the National Guard~~ as a Reserve of the armed forces, a member of the National Guard, or a member of the Space Force in space force active status (as defined in section 101(e)(1) of title 10) and not on sustained duty under section 20105 of title 10. Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year.

(2) In the case of an employee or individual employed on a part-time career employment basis (as defined in section 3401(2) of this title), the rate at which leave accrues under this subsection shall be a percentage of the rate prescribed under paragraph (1) which is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee or individual during that fiscal year.

(3) The minimum charge for leave under this subsection is one hour, and additional charges are in multiples thereof.

(b) Except as provided by section 5519 of this title, an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, or the National Guard, as described in section 101 of title 32

or is a member of the Space Force in space force active status (as defined in section 101(e)(1) of title 10) and not on sustained duty under section 20105 of title 10; and

(2)(A) performs, for the purpose of providing military aid to enforce the law or for the purpose of providing assistance to civil authorities in the protection or saving of life or property or the prevention of injury—

(i) Federal service under section 331, 332, 333,<sup>1</sup> or 12406 of title 10, or other provision of law, as applicable, or

(ii) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; or

(B) performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10;

is entitled, during and because of such service, to leave without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance or efficiency rating. Leave granted by this subsection shall not exceed 22 workdays in a calendar year. Upon the request of an employee, the period for which an employee is absent to perform service described in paragraph (2) may be charged to the employee's accrued annual leave or to compensatory time available to the employee instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave.

(1) \*\*\*

(d) \*\*\*

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## TITLE 10, UNITED STATES CODE

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### §115. Personnel strengths: requirement for annual authorization

(a) ACTIVE-DUTY, AND SELECTED RESERVE, AND SPACE FORCE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for ~~each of the armed forces (other than the Coast Guard) the Army, Navy, Air Force, and Marine Corps~~ for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(3) The end strength for the Space Force for members in space force active status.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to



be on active duty or full-time National Guard duty at any given time who are called or ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1825 days in the previous 2190 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).

(c) LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law; or

(3) the use of members of the Space Force in space force active status unless the end strength for the Space Force for that fiscal year for members in space force active status has been authorized by law; or

~~(3)~~ (4) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize for each fiscal year both the minimum end strength for non-temporary military technicians (dual status) and the end strength for temporary military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the minimum end strength for non-temporary military technicians (dual status), and the end strength for temporary military technicians (dual status), requested for each reserve component of the Army and Air Force shall be specifically set forth.

(e) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance

with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f)) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY, AND SELECTED RESERVE, AND SPACE FORCE END STRENGTHS.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) vary the end strength authorized pursuant to subsection (a)(1)(A) or (a)(3) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) vary the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 3 percent of that end strength; and

(4) vary the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY, AND SELECTED RESERVE, AND SPACE FORCE END STRENGTHS.—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

(A) vary the end strength authorized pursuant to subsection (a)(1)(A) or (a)(3) for a fiscal year for the armed force or forces under the jurisdiction of that Secretary by a number equal to not more than two percent of such authorized end strength; and

(B) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force or forces under the jurisdiction of that Secretary by a number equal to not more than one percent of such authorized end strength.

(2) Any variance under paragraph (1)(A) of the end strength for an armed force for a fiscal year shall be counted as part of the variance for that armed force for that fiscal year authorized under subsection (f)(1). Any variance under paragraph (1)(B) of the end strength for the Selected Reserve of a reserve component of an armed force for a fiscal year shall be counted

as part of the variance for that Selected Reserve for that fiscal year authorized under subsection (f)(3).

(3) The Secretary of the military department concerned shall promptly notify the congressional defense committees if such Secretary exceeds a variance under paragraph (1), and at least once every 90 days thereafter for so long as such end strength is outside such variance. Each such notification shall include the following:

(A) Modified projected end strengths for active and reserve components of the armed force or forces for which such Secretary exceeds such variance or, in the case of the Space Force, a modified projected end strength for that armed force.

(B) An identification of any budgetary effects projected as a result of such modified end strength projections.

(C) An explanation of any effects on readiness resulting from such modified end strength projections.

(h) ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.—\*\*\*.

(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) \*\*\*

.....

## § 152. Chairman: appointment; grade and rank

(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of four years, beginning on October 1 of an odd-numbered year. The limitation does not apply in time of war.

\* \* \* \* \*

(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of the Navy, admiral, ~~or, in the case of an officer of the Space Force, the equivalent grade,~~ and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

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## § 181. Joint Requirements Oversight Council

(a) IN GENERAL.—There is a Joint Requirements Oversight Council in the Department of Defense.

\* \* \* \* \*

(c) COMPOSITION.—

(1) IN GENERAL.—The Joint Requirements Oversight Council is composed of the following:

(A) The Vice Chairman of the Joint Chiefs of Staff, who is the Chair of the Council and is the principal adviser to the Chairman of the Joint Chiefs of Staff for making recommendations about joint military capabilities or joint performance requirements.

(B) An Army officer in the grade of general.

(C) A Navy officer in the grade of admiral.

(D) An Air Force officer in the grade of general.

(E) A Marine Corps officer in the grade of general.

(F) A Space Force officer in the grade of general. ~~In the grade equivalent to the grade of general in the Army, Air Force, or Marine Corps, or admiral in the Navy.~~

(2) SELECTION OF MEMBERS.—Members of the Council under subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for selection by the Secretary of the military department concerned.

(3) RECOMMENDATIONS.—In making any recommendation to the Chairman of the Joint Chiefs of Staff as described in paragraph (1)(A), the Vice Chairman of the Joint Chiefs of Staff shall provide the Chairman any dissenting view of members of the Council under paragraph (1) with respect to such recommendation.

\* \* \* \* \*

**§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades**

(a) For purposes of the applicable limitation in section 526(a) of this title on general and flag officers on active duty, no appointment of an officer on the active duty list or the Space Force officer list, may be made-

(1) in the Army, if that appointment would result in more than-

(A) 8 officers in the grade of general;

(B) 46 officers in a grade above the grade of major general; or

(C) 90 officers in the grade of major general;

(2) in the Air Force, if that appointment would result in more than-

(A) 9 officers in the grade of general;

(B) 44 officers in a grade above the grade of major general; or

(C) 73 officers in the grade of major general;

(3) in the Navy, if that appointment would result in more than-

(A) 6 officers in the grade of admiral;

(B) 34 officers in a grade above the grade of rear admiral; or

(C) 49 officers in the grade of rear admiral;

(4) in the Marine Corps, if that appointment would result in more than-

- (A) 2 officers in the grade of general;
- (B) 17 officers in a grade above the grade of major general; or
- (C) 22 officers in the grade of major general; and

(5) in the Space Force, if that appointment would result in more than-

- (A) 2 officers on sustained duty orders in the grade of general;
- (B) 7 officers on sustained duty orders in a grade above the grade of major general; or
- (C) 6 officers on sustained duty orders in the grade of major general.

(b) The limitations of subsection (a) do not include the following:

(1) An officer released from a joint duty assignment, but only during the 60-day period beginning on the date the officer departs the joint duty assignment, except that the Secretary of Defense may authorize the Secretary of a military department to extend the 60-day period by an additional 120 days, but no more than three officers from each armed forces may be on active duty who are excluded under this paragraph.

(2) The number of officers required to serve in joint duty assignments as authorized by the Secretary of Defense under section 526(b) for each military service.

(c)(1) Subject to paragraph (3), the President-

(A) may make appointments in the Army, Air Force, Marine Corps, and Space Force in the grades of lieutenant general and general in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

(B) may make appointments in the Navy in the grades of vice admiral and admiral in excess of the applicable numbers determined under this section if each such appointment is made in conjunction with an offsetting reduction under paragraph (2).

(2) For each appointment made under the authority of paragraph (1) in the Army, Air Force, Marine Corps, or Space Force in the grade of lieutenant general or general or in the Navy in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one. When such an appointment is made, the President shall specify the armed force in which the reduction required by this paragraph is to be made.

(3)(A) The number of officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under the authority of paragraph (1) may not exceed 15.

(B) The number of officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under the authority of paragraph (1) may not exceed 5.

(4) Upon the termination of the appointment of an officer in the grade of lieutenant general or vice admiral or general or admiral that was made in connection with an increase under paragraph (1) in the number of officers that may be serving on active duty in that armed force in that grade, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of that increase shall no longer be in effect.

(d) An officer continuing to hold the grade of general or admiral under section 601(b)(5) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of

the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Chief of Space Operations shall not be counted for purposes of this section.

(e) The following officers shall not be counted for purposes of this section:

(1) An officer of that armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

(2) At the discretion of the Secretary of Defense, an officer of that armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first.

(f) An officer while serving as Attending Physician to the Congress is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above brigadier general or rear admiral (lower half) under subsection (a).

(g)(1) The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for a period in excess of 365 days, but not to exceed three years, except that the number of officers from each reserve component who are covered by this subsection and are not serving in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed 5 per component, unless authorized by the Secretary of Defense.

(2) Not later than 30 days after authorizing a number of reserve component general or flag officers in excess of the number specified in paragraph (1), the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives of such authorization, and shall include with such notice a statement of the reason for such authorization.

(3) The limitations of this section do not apply to a Space Force general officer serving in a Space Force active status but not on sustained duty orders, and who is on active duty for a period in excess of 365 days but not to exceed three years. Unless authorized by the Secretary of Defense, the number of Space Force general officers covered by this subsection and not serving in a joint duty assignment for purposes of chapter 38 of this title may not exceed 5. Not later than 30 days after authorizing more than 5 Space Force general officers covered by this subsection the Secretary of Defense shall provide the notification required in accordance with paragraph (2).

\* \* \* \* \*

## **§526. Authorized strength: general officers and flag officers on active duty**

(a) LIMITATIONS.-The number of general officers on active duty in the Army, Air Force, Marine Corps, and Space Force, and the number of flag officers on active duty in the Navy may not exceed the number specified for the armed force concerned as follows:

(1) For the Army, 219.

(2) For the Navy, 150.

- (3) For the Air Force, 171.
- (4) For the Marine Corps, 64.
- (5) For the Space Force, 21.

(b) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.-

(1) IN GENERAL.-The Secretary of Defense may designate up to 232 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion from the limitations in subsection (a).

(2) MINIMUM NUMBER.-Unless the Secretary of Defense determines that a lower number is in the best interest of the Department of Defense, the minimum number of officers serving in positions designated under paragraph (1) for each armed force shall be as follows:

- (A) For the Army, 75.
- (B) For the Navy, 53.
- (C) For the Air Force, 68.
- (D) For the Marine Corps, 17.
- (E) For the Space Force, 6.

(c) EXCLUSION OF CERTAIN OFFICERS OF RESERVE COMPONENTS AND OF THE SPACE FORCE.-  
The limitations of this section do not apply to the following:

(1) A general or flag officer of a reserve component or of the Space Force who is on active duty-

- (A) for training; or
- (B) under a call or order specifying a period of less than 180 days.

(2)(A) A general or flag officer of a reserve component who is authorized by the Secretary of the military department concerned to serve on active duty for a period of at least 180 days and not longer than 365 days.

(B) The Secretary of the military department concerned may authorize a number, determined under subparagraph (C), of officers in the reserve component of each armed force under the jurisdiction of that Secretary to serve as described in subparagraph (A).

(C) Each number described in subparagraph (B) may not exceed 10 percent of the number of general or flag officers, as the case may be, authorized to serve in the armed force concerned under section 12004 of this title. In determining a number under this subparagraph, any fraction shall be rounded down to the next whole number that is greater than zero.

(D) The Secretary of the Air Force may authorize not more than two of the general officers authorized to serve in the Space Force under section 20110 of this title to serve on active duty for a period of at least 180 days and not longer than 365 days.

(3)(A) A general or flag officer of a reserve component, or a Space Force general officer in a Space Force active status not on sustained duty, who is on active duty for a period longer than 365 days and not longer than three years.

(B) The number of officers described in subparagraph (A) who do not serve in a position that is a joint duty assignment for purposes of chapter 38 of this title may not exceed five per armed force, unless authorized by the Secretary of Defense.

(d) Exclusion of Certain Officers Pending Separation or Retirement or Between Senior Positions.-The limitations of this section do not apply to-



(1) an officer of an armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer; ~~or~~

(2) an officer of an armed force who has been relieved from a position designated under section 601(a) of this title or by law to carry one of the grades specified in such section, but only during the 60-day period beginning on the date on which the assignment of the officer to the first position is terminated or until the officer is assigned to a second such position, whichever occurs first; or

(3) a Space Force officer in the grade of brigadier general or above who is pending transition off of sustained duty orders, but only during the 60-day period preceding the end date of such orders.

\* \* \* \* \*

### **§ 531. Original appointments of commissioned officers**

(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, Regular Marine Corps, and Space Force, and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy and Regular Marine Corps in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, and in the equivalent grades in the Space Force shall be made by the President alone.

(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, Regular Marine Corps, and Space Force, and in the grades of lieutenant commander, commander, and captain in the Regular Navy and Regular Marine Corps in the grades of lieutenant commander, commander, and captain in the Regular Navy, and in the equivalent grades in the Space Force shall be made by the President, by and with the advice and consent of the Senate.

\* \* \* \* \*

### **§ 533. Service credit upon original appointment as a commissioned officer**

(a)(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade (other than a warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Space Force such person shall be credited at the time of such appointment with any active commissioned service (other than service as a commissioned warrant officer) that he performed in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service before such appointment.

\* \* \* \* \*

(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall credit a person who is receiving an original appointment in a

commissioned grade (other than a commissioned warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, Marine Corps, or Space Force and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed, designated, or assigned in officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed forces.

(D) Additional credit as follows:

(i) For special training or experience in a particular officer field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned.

(ii) During fiscal years 2021 through 2025, for advanced education in an officer field so designated, if such education is directly related to the operational needs of the armed force concerned

(E) Additional credit for experience as a physician or dentist, if appointed as a medical or dental officer in the Army or Navy or, in the case of the Air Force, with a view to designation as a medical or dental officer.

(2) The amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of colonel in the Army, Air Force, Marine Corps, or Space Force ~~or Marine Corps~~ or captain in the Navy, ~~or an equivalent grade in the Space Force.~~

(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

\* \* \* \* \*

## **§ 611. Convening of selection boards**

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, Marine Corps, or Space Force ~~or Marine Corps~~ and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

\* \* \* \* \*

### **§ 612. Composition of selection boards**

(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers of the same armed force as the officers under consideration by the board. Each member of a selection board (except as provided in paragraphs (2), (3), and (4)) shall be an officer on the active-duty list. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander. The members of a selection board shall represent the diverse population of the armed force concerned to the extent practicable.

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

(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force on active duty (whether or not on the active-duty list). The actual number of reserve officers shall be determined by the Secretary of the military department concerned, in the Secretary's discretion. Notwithstanding the first sentence of this paragraph, in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or rear admiral (lower half), no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade who are eligible to serve on the board.

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

grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

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

(b) No officer may be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who—

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of—

(A) any selection board of the Marine Corps or the Space Force; or

(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.

\* \* \* \* \*

#### **§ 628a. Special selection review boards**

(a) IN GENERAL.—(1)(A) If the Secretary of the military department concerned determines that a person recommended by a promotion board for promotion to a grade at or below the grade of major general, or rear admiral in the Navy ~~rear admiral in the Navy, or an equivalent grade in the Space Force~~ is the subject of credible information of an adverse nature, including any substantiated adverse finding or conclusion described in section 615(a)(3)(A) of this title, that was not furnished to the promotion board during its consideration of the person for promotion as otherwise required by such section, the Secretary shall convene a special selection review board under this section to review the person and recommend whether the recommendation for promotion of the person should be sustained.

(B) Nothing in this section shall be construed to prevent a Secretary concerned from deferring consideration of adverse information concerning an officer subject to this section until the next regularly scheduled promotion board applicable to such officer, in lieu of furnishing such adverse information to a special selection review board under this section.

(2) If a person and the recommendation for promotion of the person is subject to review under this section by a special selection review board convened under this section, the name of the person—

(A) shall not be disseminated or publicly released on the list of officers recommended for promotion by the promotion board recommending the promotion of the person; and

(B) shall not be forwarded to the Secretary of Defense, the President, or the Senate, as applicable, or included on a promotion list under section 624(a) of this title.

\* \* \* \* \*

**§645. Definitions**

In this chapter:

(1) The term “promotion zone” means a promotion eligibility category consisting of the officers on an active-duty list in the same grade and competitive category-

(A) who—

(i) in the case of officers in grades below colonel, for officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Navy, have neither (I) failed of selection for promotion to the next higher grade, nor (II) been removed from a list of officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); or

(ii) in the case of officers in the grade of colonel or brigadier general, for officers of the Army, Air Force, ~~and~~ Marine Corps, and Space Force, or captain or rear admiral (lower half), for officers of the Navy, have neither (I) not been recommended for promotion to the next higher grade when considered in the promotion zone, nor (II) been removed from a list of officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); and

(B) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade.

(2) The term “officers above the promotion zone” means a group of officers on an active-duty list in the same grade and competitive category who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as those officers in the promotion zone for that competitive category; and

(C) are senior to the senior officer in the promotion zone for that competitive category.

(3) The term “officers below the promotion zone” means a group of officers on the active-duty list in the same grade and competitive category who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as the officers in the promotion zone for that competitive category; and

(C) are junior to the junior officer in the promotion zone for that competitive category.

\* \* \* \* \*

**§ 1370. Regular commissioned officers**

(a) RETIREMENT IN HIGHEST GRADE IN WHICH SERVED SATISFACTORILY.—\*\*\*

\* \* \* \* \*

(g) HIGHEST PERMANENT GRADE DEFINED.—In this section, the term ‘highest permanent grade’ means a grade at or below the grade of major general in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or rear admiral in the Navy; ~~or an equivalent grade in the Space Force.~~

**§ 1370a. Officers entitled to retired pay for non-regular service**

(a) RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—\*\*\*

\* \* \* \* \*

(d) OFFICERS IN O-9 AND O-10 GRADES.—

(1) IN GENERAL.—A person covered by this section in the Army, Navy, Air Force, ~~or~~ Marine Corps, or Space Force who is serving or has served in a position of importance and responsibility designated by the President to carry the grade of lieutenant general or general in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or vice admiral or admiral in the Navy under section 601 of this title may be retired in such grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and the Committees on Armed Services of the Senate and the House of Representatives that the officer served satisfactorily in such grade.

\* \* \* \* \*

(h) HIGHEST PERMANENT GRADE DEFINED.—In this section, the term “highest permanent grade” means a grade at or below the grade of major general in the Army, Air Force, ~~or~~ Marine Corps, or Space Force or rear admiral in the Navy.

\* \* \* \* \*

**§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay**

(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

(1) GENERAL RULE.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

(2) EXCEPTION FOR RECOMPUTATION.—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base.

\* \* \* \* \*

(i) SPECIAL RULE FOR FORMER CHAIRMEN AND VICE CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, CHIEF OF THE NATIONAL GUARD BUREAU, COMMANDERS OF COMBATANT COMMANDS, AND SENIOR ENLISTED MEMBERS.—

(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman or Vice Chairman of the Joint Chiefs of Staff, as a Chief of

Service, as Chief of the National Guard Bureau, as a commander of a unified or specified combatant command (as defined in section 161(c) of this title), or as the senior enlisted member of an armed force or the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

(2) EXCEPTION FOR MEMBERS REDUCED IN GRADE OR WHO DO NOT SERVE SATISFACTORILY.—Paragraph (1) does not apply in the case of a member who, while or after serving in a position specified in that paragraph and by reason of conduct occurring after October 16, 1998—

(A) in the case of an enlisted member, is reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process; or

(B) in the case an officer, is not certified by the Secretary of Defense under section 1370(c) of this title as having served on active duty satisfactorily in the grade of general or admiral, as the case may be, while serving in that position.

(3) DEFINITIONS.—In this subsection:

(A) The term “Chief of Service” means any of the following:

- (i) Chief of Staff of the Army.
- (ii) Chief of Naval Operations.
- (iii) Chief of Staff of the Air Force.
- (iv) Commandant of the Marine Corps.
- (v) Chief of Space Operations.
- (vi) Commandant of the Coast Guard.

(B) The term “senior enlisted member” means any of the following:

- (i) Sergeant Major of the Army.
- (ii) Master Chief Petty Officer of the Navy.
- (iii) Chief Master Sergeant of the Air Force.
- (iv) Sergeant Major of the Marine Corps.
- (v) ~~The senior enlisted advisor of the Space Force.~~ Chief Master Sergeant of the Space Force.
- (vi) Master Chief Petty Officer of the Coast Guard.

## § 2107. Financial assistance program for specially selected members

(a) The Secretary of the military department concerned may appoint as a cadet or midshipman, as appropriate, in the reserve of an armed force under his jurisdiction any eligible member of the program who will be under 31 years of age on December 31 of the calendar year in which he is eligible under this section for appointment as an ensign in the Navy or as a second lieutenant in the Army, Air Force, Marine Corps, or Space Force, as the case may be.

\*\*\*

(d) Upon satisfactorily completing the academic and military requirements of the four-year program, a cadet or midshipman may be appointed as a regular or reserve officer in the appropriate armed force in the grade of second lieutenant, or ensign, ~~or an equivalent grade in the Space Force~~, even though he is under 21 years of age.

\* \* \* \* \*

## **§2151. Definitions**

(a) JOINT PROFESSIONAL MILITARY EDUCATION.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

- (1) National Military Strategy.
- (2) Joint planning at all levels of war.
- (3) Joint doctrine.
- (4) Joint command and control.
- (5) Joint force and joint requirements development.
- (6) Operational contract support.

(b) OTHER DEFINITIONS.—In this chapter:

(1) The term “senior level service school” means any of the following:

- (A) The Army War College.
- (B) The College of Naval Warfare.
- (C) The Air War College.
- (D) The Marine Corps War College.
- (E) The Space Force Senior Level Education Program

(2) The term “intermediate level service school” means any of the following:

- (A) The United States Army Command and General Staff College.
- (B) The College of Naval Command and Staff.
- (C) The Air Command and Staff College.
- (D) The Marine Corps Command and Staff College.
- (E) The Space Force Intermediate Level Education Program.

\* \* \* \* \*

## **§ 2162. Preparation of budget requests for operation of professional military education schools**

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(d) PROFESSIONAL MILITARY EDUCATION SCHOOLS.—This section applies to each of the following professional military education schools:

- (1) The National Defense University.
- (2) The Army War College.
- (3) The College of Naval Warfare.
- (4) The Air War College.
- (5) The United States Army Command and General Staff College.
- (6) The College of Naval Command and Staff.
- (7) The Air Command and Staff College.
- (8) The Marine Corps University.
- (9) The Space Force Senior Level Education Program.



(10) The Space Force Intermediate Level Education Program.

\* \* \* \* \*

**§ 9016. Assistant Secretaries of the Air Force**

(a) There are five Assistant Secretaries of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

(2) \*\*\*

(3)\*\*\*

(4)\*\*\*

(5)\*\*\*

(6)(A) One of the Assistant Secretaries is the Assistant Secretary of the Air Force for Space Acquisition and Integration.

(B) Subject to the authority, direction, and control of the Secretary of the Air Force, the Assistant Secretary shall do as follows:

(i) Be responsible for all architecture and integration of the Air Force for space systems and programs, including in support of the Chief of Space Operations under section 9082 of this title.

(ii) Act as the chair of the Space Acquisition Council under section 9021 of this title.

(iii) Advise the service acquisition executive of the Air Force with responsibility for space systems and programs (including for all major defense acquisition programs under chapter 144 of this title for space) on the acquisition of such systems and programs by the Air Force.

(iv) Oversee and direct each of the following:

(I) The Space Rapid Capabilities Office under section 2273a of this title.

(II) ~~The Space and Missile Systems Center~~ Space Systems Command.

(III) The Space Development Agency with respect to acquisition decisions.

(v) Advise and synchronize acquisition projects for all space systems and programs of the Air Force, including projects for space systems and programs responsibility for which is transferred to the Assistant Secretary pursuant to section 956(b)(3) of the United States Space Force Act.

(vi) Effective as of the date specified in section 957(d) of such Act, and in accordance with such section 957, serve as the Service Acquisition Executive of the Department of the Air Force for Space Systems and Programs and discharge any senior procurement executive duties and authorities assigned by the Secretary of the Air Force pursuant to section 9014(c)(6) of this title.

(C) \*\*\*

\* \* \* \* \*

## § 9082. Chief of Space Operations

(a) APPOINTMENT.—(1) There is a Chief of Space Operations, appointed by the President, by and with the advice and consent of the Senate, from the general, ~~flag, or equivalent~~ officers of the Space Force. The Chief serves at the pleasure of the President.

(2) The Chief shall be appointed for a term of four years. In time of war or during a national emergency declared by Congress, the Chief may be reappointed for a term of not more than four years.

(3) The President may appoint an officer as Chief of Space Operations only if—  
(A) the officer has had significant experience in joint duty assignments; and  
(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(d) of this title) as a general, ~~flag, or equivalent~~ officer of the Space Force.

(4) The President may waive paragraph (3) in the case of an officer if the President determines such action is necessary in the national interest.

(b) GRADE.—The Chief, while so serving, has the ~~grade of general grade in the Space Force equivalent to the grade of general in the Army, Air Force, and Marine Corps, or admiral in the Navy~~ without vacating the permanent grade of the officer.

(c) RELATIONSHIP TO THE SECRETARY OF THE AIR FORCE.—Except as otherwise prescribed by law and subject to section 9013(f) of this title, the Chief performs the duties of such position under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

(d) DUTIES.—Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief shall—

(1) preside over the Office of the Chief of Space Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Space Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Space Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Space Force as the Secretary determines;

(5) perform duties prescribed for the Chief of Space Operations by sections 171 and 3104 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to the Chief by the President, the Secretary of Defense, or the Secretary of the Air Force.

(e) JOINT CHIEFS OF STAFF.—(1) ~~Commencing one year after the date of the enactment of the United States Space Force Act, the~~ The Chief of Space Operations shall be a member of the Joint Chiefs of Staff.

(2) To the extent that such action does not impair the independence of the Chief in the performance of the duties of the Chief as a member of the Joint Chiefs of Staff pursuant to paragraph (1), the Chief shall inform the Secretary of the Air Force regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

### **§ 9083. Vice Chief of Space Operations**

(a) APPOINTMENT.—There is a Vice Chief of Space Operations, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Space Force.

(b) GRADE.—The Vice Chief of Space Operations, while so serving, has the grade of general without vacating the permanent grade of the officer.

(c) DUTIES.—The Vice Chief of Space Operations has such authorities and duties with respect to the Space Force as the Chief of Space Operations, with the approval of the Secretary of the Air Force, may delegate to or prescribe for the Vice Chief of Space Operations. Orders issued by the Vice Chief of Space Operations in performing such duties have the same effect as those issued by the Chief of Space Operations.

(d) VACANCY IN OFFICE OF CHIEF OF SPACE OPERATIONS.—When there is a vacancy in the office of Chief of Space Operations or during the absence or disability of the Chief of Space Operations—

(1) the Vice Chief of Space Operations shall perform the duties of the Chief of Space Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Space Operations or the Vice Chief of Space Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Space Force in the Space Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Space Operations until a successor to the Chief of Space Operations or the Vice Chief of Space Operations is appointed or until the absence or disability of the Chief of Space Operations or Vice Chief of Space Operations ceases, whichever occurs first.

### **§ 9084 9083. Office of the Chief of Space Operations: function; composition**

(a) FUNCTION.—There is in the executive part of the Department of the Air Force an Office of the Chief of Space Operations to assist the Secretary of the Air Force in carrying out the responsibilities of the Secretary.

(b) COMPOSITION.—The Office of the Chief of Space Operations is composed of the following:

(1) The Chief of Space Operations.

(2) Other members of the Space Force and Air Force assigned or detailed to the Office of the Chief of Space Operations.

(3) Civilian employees in the Department of the Air Force assigned or detailed to the Office of the Chief of Space Operations.

(c) ORGANIZATION.—Except as otherwise specifically prescribed by law, the Office of the Chief of Space Operations shall be organized in such manner, and the members of the Office of the Chief of Space Operations shall perform such duties and have such titles, as the Secretary of the Air Force may prescribe.

**§ ~~9085~~ 9084. Office of the Chief of Space Operations: general duties**

(a) PROFESSIONAL ASSISTANCE.—The Office of the Chief of Space Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Air Force and to the Chief of Space Operations.

(b) AUTHORITIES.—Under the authority, direction, and control of the Secretary of the Air Force, the Office of the Chief of Space Operations shall—

(1) subject to subsections (c) and (d) of section 9014 of this title, prepare for such employment of the Space Force, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Space Force, as will assist in the execution of any power, duty, or function of the Secretary of the Air Force or the Chief of Space Operations;

(2) investigate and report upon the efficiency of the Space Force and its preparation to support military operations by commanders of the combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary of the Air Force or the Chief of Space Operations, coordinate the action of organizations of the Space Force; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary of the Air Force.

**§ ~~9086~~ 9085. Regular Space Force: composition**

(a) IN GENERAL.—The Regular Space Force is the component of the Space Force that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Space Force.

(b) COMPOSITION.—The Regular Space Force includes-

(1) the officers and enlisted members of the Regular Space Force; and

(2) the retired officers and enlisted members of the Regular Space Force.

**§ ~~9087~~ 9086. Space Development Agency**

(a) IN GENERAL.—(1) There is a Space Development Agency of the Department of Defense (in this section referred to as the “Agency”). The Director of the Space Development Agency shall be the head of the Agency.

(b) Effective on October 1, 2022—

(A) the Agency shall be an element of the Space Force; and

(B) the Director shall report-

(i) pursuant to section 9016(b)(6)(B)(iv)(III) of this title, to the Assistant Secretary of the Air Force for Space Acquisition and Integration with respect to acquisition decisions; and

(ii) directly to the Chief of Space Operations with respect to requirements decisions, personnel decisions, and any other matter not covered by clause (i).

(c) \*\*\*

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#### **§9279. Distinguished flying cross: award; limitations**

(a) The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Air Force or Space Force, distinguishes himself by heroism or extraordinary achievement while participating in an aerial or space flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

#### **§9280. Airman's Medal: award; limitations**

(a)(1) The President may award a decoration called the "Airman's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Air Force or Space Force, distinguishes himself by heroism not involving actual conflict with an enemy.

(2) The authority in paragraph (1) includes authority to award the medal to a member of the Ready Reserve who was not in a duty status defined in section 101(d) of this title when the member distinguished himself by heroism.

(b) Not more than one Airman's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs.

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#### **§ 9414b. United States Air Force Institute of Technology: administration**

(a) DIRECTOR AND CHANCELLOR.—

(1) SELECTION.—The Director and Chancellor of the United States Air Force Institute of Technology shall be selected by the Secretary of the Air Force.

(2) ELIGIBILITY.—The Director and Chancellor shall be one of the following:

(A) An officer of the Air Force or the Space Force on active duty in a grade not below the grade of colonel who possesses such qualifications as the Secretary considers appropriate and is assigned or detailed to such position.

(B) A member of the Senior Executive Service or a civilian individual, including an individual who was retired from the Air Force or the Space Force in a grade not below brigadier general ~~or the equivalent grade in the Space Force,~~

who has the qualifications appropriate for the position of Director and Chancellor and is selected by the Secretary as the best qualified from among candidates for the position in accordance with a process and criteria determined by the Secretary.

(3) TERM FOR CIVILIAN DIRECTOR AND CHANCELLOR.—An individual selected for the position of Director and Chancellor under paragraph (2)(B) shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.

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## **§20106. Orders to active duty: without consent of member**

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(d) OTHER APPLICABLE PROVISIONS.—The following provisions of chapter 1209 of this title ~~pertain~~ shall apply to a member of the Space Force ordered to active duty in the same manner as to a Reserve or member of the Retired Reserve ordered to active duty:

- (1) Section 12305, relating to the authority of the President to suspend certain laws relating to promotion, retirement, and separation.
- (2) Section 12308, relating to retention after becoming qualified for retired pay.
- (3) Section 12313, relating to release from active duty.
- (4) Section 12314, relating to kinds of duty.
- (5) Section 12315, relating to duty with or without pay.
- (6) Section 12316, relating to payment of certain Reserves while on duty.
- (7) Section 12317, relating to theological students; limitations.
- (8) Section 12320, relating to grade in which ordered to active duty.

\* \* \* \* \*

## **§20211. Convening of selection boards**

(a) IN GENERAL.—Whenever the needs of the service require, the Secretary of the Air Force shall convene selection boards to recommend for promotion to the next higher permanent grade officers of the Space Force in each permanent grade from first lieutenant through brigadier general.

(b) EXCEPTION FOR OFFICERS IN GRADE OF FIRST LIEUTENANT.—Subsection (a) does not require the convening of a selection board in the case of Space Force officers in the permanent grade of first lieutenant when the Secretary of the Air Force recommends for promotion to the grade of captain under section ~~20238(A)(4)(A)~~20239(c)(4)(A) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(c) SELECTION BOARDS FOR EARLY RETIREMENT OR DISCHARGE.—The Secretary of the Air Force may convene selection boards to recommend officers for early retirement under section 20404(a) of this title or for discharge under section 20404(b) of this title.

(d) REGULATIONS.—The convening of selection boards under subsection (a) shall be under regulations prescribed by the Secretary of the Defense.

## §20212. Composition of selection boards

### (a) APPOINTMENT AND COMPOSITION OF BOARDS.—

(1) IN GENERAL.—Members of a selection board shall be appointed by the Secretary of the Air Force in accordance with this section. A selection board shall consist of five or more officers of the Space Force. Each member of a selection board shall be an officer of the Space Force on the Space Force officer list; and must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major. The members of a selection board shall include at least one member serving on sustained duty and at least one member in a space force active status who is not serving on sustained duty. The ratio of the members of a selection board serving on sustained duty to members serving in a space force active status not on sustained duty shall, to the extent practicable, reflect the ratio of officers serving in each of those statuses who are being considered for promotion by the board. The members of a selection board shall represent the diverse population of the Space Force to the extent practicable.

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

(B) A selection board need not include an officer from a competitive category when there are no officers of that competitive category on the Space Force officer list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board.

(3) RETIRED OFFICERS.—If qualified officers on the Space Force officer list are not available in sufficient number to comprise a selection board, the Secretary of the Air Force shall complete the membership of the board by appointing as members of the board—

(A) Space Force officers who hold a grade higher than the grade of the officers under consideration by the board and who are retired officers; and

(B) if sufficient Space Force officers are not available pursuant to subparagraph (A), Air Force officers who hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, but only if the Air Force officer to be appointed to the board has served in the Space Force or in a space-related career field of the Air Force for sufficient time such that the Secretary of the Air Force determines that the retired Air Force officer has adequate knowledge concerning the standards of performance and conduct required of an officer of the Space Force.

(4) EXCLUSION OF RETIRED GENERAL OFFICERS ON ACTIVE DUTY TO SERVE ON A BOARD FROM NUMERIC GENERAL OFFICER ACTIVE-DUTY LIMITATIONS.—A retired general officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

### (b) LIMITATION ON MEMBERSHIP ON CONSECUTIVE BOARDS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), no officer may be a member of two successive selection boards convened under section 20211 of this title for the consideration of officers of the same competitive category and grade.

(2) EXCEPTION FOR GENERAL OFFICER BOARDS.—Paragraph (1) does not apply with respect to selection boards convened under section 20211 of this title for the consideration of officers in the grade of colonel or brigadier general.

(c) JOINT QUALIFIED OFFICERS.—(1) Each selection board convened under section 20211 of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

(2) Paragraph (1) applies with respect to an officer who—

(A) is serving on, or has served on, the Joint Staff; or

(B) is a joint qualified officer.

(3) The Secretary of Defense may waive the requirement in paragraph (1) for any selection board of the Space Force.

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### **§20216. Reports of selection boards**

(a) IN GENERAL.—Each selection board convened under section 20211 of this title shall submit to the Secretary of the Air Force a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying-

(1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title; and

(2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the Space Force (as noted in the guidelines or information furnished the board under section 615(b) of this title) among those officers whose names were furnished to the selection board.

(b) OFFICERS WHO SHOULD BE REQUIRED TO SHOW CAUSE FOR RETENTION.—A selection board convened under section 20211 of this title shall include in its report the name of any officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under section 20503 of this title to show cause for the officer's retention in a space force active status.

(c) OFFICERS RECOMMENDED TO BE PLACED HIGHER ON THE PROMOTION LIST.—A selection board convened under section 20211 of this title shall, when authorized under section ~~20214~~(g)20215(g) of this title, include in its report the names of those officers recommended by the board to be placed higher on the promotion list and the order in which the board recommends that those officers should be placed on the list.

(d) RECOMMENDATION FOR OFFICERS TO BE EXCLUDED FROM FUTURE CONSIDERATION FOR PROMOTION.—A selection board convened under section 20211 of this title may include in its report a recommendation that an officer considered by the board be excluded from future consideration for promotion under this chapter.

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### **§20231. Eligibility for consideration for promotion: general rules**

(a) IN GENERAL.—



(1) Requirement to be on space force officer list.-An officer is eligible under this chapter for consideration for promotion by a selection board convened under section 14101(a) of this title only if the officer is on the Space Force officer list.

(2) AUTHORITY TO PRECLUDE FROM CONSIDERATION CERTAIN OFFICERS BASED ON TIME OF ENTRY ON OR DEPARTURE FROM SUSTAINED DUTY.-The Secretary of the Air Force-

(A) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer on the Space Force officer list transfers on or off of sustained duty during which the officer shall be ineligible for consideration for promotion; and

(B) may, by regulation, provide for the exclusion from consideration for promotion by a selection board of an officer otherwise eligible to be considered by the board who has an established date for removal from the Space Force officer list that is not more than 90 days after the date on which the board is to be convened.

(b) CERTAIN OFFICERS NOT TO BE CONSIDERED.-A selection board convened under section 20211 of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 20151 of this title, under section 14101 or 14502 of this title, or under chapter 36 of this title.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under a provision referred to in paragraph (1), in the case of such a report that has not yet been approved by the President.

(3) An officer who has been nominated by the President for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(4) An officer in the grade of first lieutenant who is on an approved all-fully-qualified-officers list under section ~~20238(a)(4)~~20239(c)(4) of this title.

(5) An officer excluded under ~~20232~~section 20232 of this title.

(6) An officer who has failed of promotion to a higher grade the maximum number of times specified for opportunities for promotion for such grade within the competitive category concerned pursuant to section 20234 of this title.

(c) CERTAIN COLONELS.-

(1) Authority to preclude from consideration.-The Secretary of Defense may authorize the Secretary of the Air Force to preclude from consideration by selection boards for promotion to the grade of brigadier general, officers in the grade of colonel who-

(A) have been considered and not selected for promotion to the grade of brigadier general or by at least two selection boards; and

(B) are determined, in accordance with standards and procedures prescribed pursuant to paragraph (2), as not being exceptionally well qualified for promotion.

(2) REGULATIONS.-If the Secretary of Defense authorizes the Secretary of the Air Force to have the authority described in subparagraph (A), the Secretary shall prescribe by regulation the standards and procedures for the exercise of such authority. Those regulations shall apply uniformly among the military departments and shall include the following provisions:

(A) A requirement that the Secretary of the Air Force may exercise such authority in the case of a particular selection board only if the Secretary of Defense approves the exercise of that authority for that board.

(B) A requirement that an officer may be precluded from consideration by a selection board under this paragraph only upon the recommendation of a preselection board of officers convened by the Secretary of the military department concerned and composed of at least three officers all of whom are serving in a grade higher than the grade of such officer.

(C) A requirement that such a preselection board may not recommend that an officer be precluded from such consideration unless the Secretary of the Air Force has given the officer advance written notice of the convening of such board and of the military records that will be considered by the board and has given the officer a reasonable period before the convening of the board in which to submit comments to the board.

(D) A requirement that the Secretary of the Air Force shall provide general guidance to the board in accordance with standards and procedures prescribed by the Secretary of Defense in those regulations.

(E) A requirement that the preselection board may recommend that an officer be precluded from consideration by a selection board only on the basis of the general guidance provided by the ~~Secretary Air Force~~ Secretary of the Air Force, information in the officer's official military personnel records that has been described in the notice provided the officer as required pursuant to subparagraph (C), and any communication to the board received from that officer before the board convenes.

(d) Brigadier Generals.-

(1) Officers not on space force officer list.-A brigadier general who is not eligible for consideration for promotion because the officer is not on the Space Force officer list (as required by paragraph (1) of subsection (a) for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a selection board convened under [section 20211\(a\) of this title](#) if-

(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than the minimum threshold established in paragraph (2) of subsection (a); and

(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the Space Force officer list for at least one year.

(2) Officers not meeting minimum participation threshold.-A brigadier general who is on the Space Force officer list but who is not eligible for consideration for promotion because the officer's service does not meet the minimum participation threshold established under subsection (a)(2) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under [section 20211\(a\) of this title](#) if-

(A) the officer was transferred from an inactive status to the reserve active-status list during the one-year period preceding the date of the convening of the promotion board;

(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active-status list or the active-duty list (or a combination of the reserve active-status list and the active-duty list).

(e) Officers on Educational Delay.-An officer on the Space Force officer list is ineligible for consideration for promotion, but shall remain on the Space Force officer list, while the officer-

- (1) is pursuing a program of graduate level education in an educational delay status approved by the Secretary concerned; and
- (2) is receiving from the Secretary financial assistance in connection with the pursuit of that program of education while in that status.

(f) **Certain Officers Not to Be Considered for Selection for Promotion.**-The Secretary of the Air Force may provide that an officer who is in a space force active status, but is in a duty status in which the only points the officer accrues under [section 12732\(a\)\(2\) of this title](#) are pursuant to subparagraph (C)(i) of that section, shall not be considered for selection for promotion until completion of two years of service in such duty status. Any such officer may remain on the Space Force officer list.

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### **§20234. Opportunities for consideration for promotion**

(a) **SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.**-The Secretary of the Air Force shall specify the number of opportunities for consideration for promotion to be afforded to Space Force officers for promotion to each grade above the grade of captain.

(b) **LIMITED AUTHORITY OF SECRETARY OF THE AIR FORCE TO MODIFY NUMBER OF OPPORTUNITIES.**-The Secretary of the Air Force may modify the number of opportunities for consideration for promotion to be afforded officers within a competitive category for promotion to a particular grade, as previously specified by the Secretary pursuant to subsection (a), not more frequently than once every five years.

(c) **AUTHORITY OF SECRETARY OF DEFENSE TO MODIFY NUMBER OF OPPORTUNITIES.**-The Secretary of Defense may modify the number of opportunities for consideration for promotion to be afforded officers of the Space Force within a competitive category for promotion to a particular grade, as previously specified or modified pursuant to any provision of this section, at the discretion of the Secretary.

(d) **LIMITATION ON NUMBER OF OPPORTUNITIES SPECIFIED.**-The number of opportunities for consideration for promotion to be afforded officers of the Space Force within a competitive category for promotion to a particular grade, as specified or modified pursuant to any provision of this section, may not exceed five opportunities.

(e) **EFFECT OF CERTAIN REDUCTION IN NUMBER OF OPPORTUNITIES SPECIFIED.**-If, by reason of a reduction in the number of opportunities for consideration for promotion under this section, an officer would no longer have one or more opportunities for consideration for promotion that were available to the officer before the reduction, the officer shall be afforded one additional opportunity for consideration for promotion after the reduction.

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### **§20239. Promotions: how made**

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(c) PROMOTION OF FIRST LIEUTENANTS ON AN ALL-FULLY-QUALIFIED OFFICERS LIST.-(1) Except as provided in subsection (f), officers on the Space Force officer list in the grade of first lieutenant who are on an approved all-fully-qualified-officers list shall be promoted to the grade of captain in accordance with regulations prescribed by the Secretary of the Air Force.

(2) An all-fully-qualified-officers list shall be considered to be approved for purposes of ~~subparagraph (A)~~ paragraph (1) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

(3) The Secretary of the Air Force may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(4) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the Space Force officer list in a grade who the Secretary of the Air Force determines-

(A) are fully qualified for promotion to the next higher grade; and

(B) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 20211 of this title upon the convening of such a board.

(5) If the Secretary of the Air Force determines that one or more officers or former officers were not placed on an all-fully-qualified-list under this subsection because of administrative error, the Secretary may prepare a supplemental all-fully-qualified-officers list containing the names of any such officers for approval in accordance with this subsection.

(d) DATE OF RANK.-

(1) General rule.-The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

(2) ADJUSTMENTS.-The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, ~~subparagraph (C)(ii) of such section~~ section 741(d)(4)(C)(ii) shall be applied by substituting "Space Force officer list" for "active-duty list".

(3) ADDITIONAL PAY AND ALLOWANCES PRECLUDED.-Except as provided in paragraph (2) or as otherwise specifically authorized by law, an officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

(e) DELAY OF PROMOTIONS TO GENERAL OFFICER GRADES TO COMPLY WITH STRENGTH LIMITATIONS.-Under regulations prescribed by the Secretary of Defense, the promotion of an officer on the Space Force officer list to the grade of brigadier general or major general shall be delayed if that promotion would cause any strength limitation of section 526 of this title to be exceeded. The delay shall expire when the Secretary of the Air Force determines that the delay is no longer required to ensure compliance with the strength limitation.

(f) AUTHORITY TO DELAY APPOINTMENTS FOR SPECIFIED REASONS.-The provisions of section 14311 of this title shall apply to the appointment of an officer under this section in the same manner as they apply to an appointment of an officer under that section, and any reference in that section to an reserve active-status list shall be treated for purposes of applicability to an officer of the Space Force as referring to the Space Force officer list.

(g) Applicability of Previous Executive Order.—Except as otherwise provided by the President by Executive order, any Executive order issued before December 22, 2023, relating to

functions of the President under section 624(c) of this title shall apply in the same manner to functions of the President under this section.

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#### **§20241. Removal of officers from a list of officers recommended for promotion**

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

(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.-If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

(c) REMOVAL AFTER 18 MONTHS.- (1) If an officer whose name is on a list of officers approved for promotion under section 20238(a) of this title to a grade for which appointment is required by section 20201(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

(3) In this subsection, the term "promotion eligibility period" means, with respect to an officer whose name is on a list of officers approved for promotion under section 20238(a) of this title to a grade for which appointment is required by section 20201(a) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.

(d) ADMINISTRATIVE REMOVAL.-Under regulations prescribed by the Secretary of the Air Force, if an officer on the Space Force officer list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.- (1) An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the Air Force may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the Space Force officer list, as the officer would have had if the officer's name had not been removed from the list.

(2) If such an officer who is in a grade below the grade of colonel is not recommended for promotion by the next selection board convened for the officer's grade and competitive category, or if the officer's name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, the officer shall be considered for all purposes to have failed of selection for promotion to the next higher grade.

(f) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.-Except as otherwise provided by the President by Executive order, any Executive order issued before the date of the enactment of this section relating to functions of the President under section 629 or 14310 of this title shall apply in the same manner to functions of the President under this section.

**§20243. General officers ceasing to occupy positions commensurate with grade**

(a) GENERAL OFFICERS.-Within 60 days after an officer of the Space Force on the Space Force officer list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary of the Air Force shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

(1) Transfer the officer in grade to the Space Force retired list, if the officer is qualified and applies for the transfer.

(2) Transfer the officer in grade to a Space Force inactive status, if the officer is qualified.

(3) Discharge the officer from the officer's appointment and, if the officer is qualified and applies therefor, appoint the officer in the grade held by the officer-as-a before the officer's appointment in a general officer grade.

(4) Discharge the officer from the officer's appointment.

(b) CREDIT FOR SERVICE IN GRADE.-An officer who is appointed under subsection (a)(3) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

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**SUBCHAPTER IV-FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION**

Sec.

20251.

Failure of selection for promotion.

202512.

Special selection boards; correction of errors.

20252a.

Special selection review boards: reference.

20253.

Retirement: retirement for years of service.

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**§20251. Failure of selection for promotion**

(a) IN GENERAL.-Except as provided in this section, sections 14501, 14503, and 14504 and ~~section 631~~sections 631 and 632 of this title shall apply to promotions of officers on the Space Force officer list. For the purpose of such applicability-

(1) any reference in those sections to the reserve active-status list or the active-duty list shall apply to the Space Force officer list; and

(2) any reference in those sections to a board convened under ~~section 14201~~sections 14101 or 611 of this title shall apply to a board convened under section 20211 of this title.

(b) INAPPLICABILITY OF FAILURE OF SELECTION FOR PROMOTION TO OFFICERS ABOVE PROMOTION ZONE.-The reference in section 14501 of this title to an officer above the promotion zone shall not apply in the promotion of officers on the Space Force officer list.

(c) RETIREMENT AUTHORITIES.-In applying section 631 or 632 of this title to such an officer, the reference in subsection (a)(3) of that section to qualifying for retirement under certain sections of this title shall be deemed to refer to qualifying for retirement under any provision of law other than chapter 61 of this title.

(d) EFFECT OF FAILURE OF SELECTION.-In the administration of this chapter pursuant to subsection (a)-

(1) an officer on the Space Force officer list shall not be deemed to have failed twice of selection for promotion for purposes of section 629(e)(2) or ~~14502(b)~~14501(b) of this title until the officer has failed selection of promotion to the next higher grade the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned under section 20234 of this title; and

(2) any reference in section 631(a) or 632(a) of this title, or in sections 14504 through 14506 of this title, to an officer who has failed of selection for promotion to the next higher grade for the second time shall be deemed to refer instead to an officer on the Space Force officer list who has failed of selection for promotion to the next higher grade for the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned under section 20234 of this title.

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## **§202512. Special selection boards; correction of errors**

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARD BECAUSE OF ADMINISTRATIVE ERROR.-

(1) CONVENING OF BOARD.-In the case of an officer or former officer who the Secretary of the Air Force determines was not considered for selection for promotion by a selection board convened under section 20211 of this title because of administrative error, the Secretary shall convene a special selection board under this subsection to determine whether that officer or former officer should be recommended for promotion.

(2) BOARD COMPOSITION; oath.-Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 20212 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

(3) RECORD CONSIDERED BY BOARD.-A special selection board convened under paragraph (1) shall consider the record of the officer or former officer as that record would have appeared to the selection board that should have considered the officer or former officer. That

record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion, and those officers of the same grade and competitive category who were not recommended for promotion, by that board.

(4) EFFECT.-If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.-

(1) CONVENING OF BOARD.-In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion by a selection board convened under section 20211 of this title but was not selected, the Secretary of the Air Force may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary must determine that-

(A) the action of the selection board that considered the officer or former officer was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or

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

(2) BOARD COMPOSITION; OATH.-A special selection board convened under paragraph ~~((1))~~(1) shall be appointed and composed in accordance with section 20212 of this title (including the representation of competitive categories required by that section), and the members of ~~such~~ a board shall take an oath in the same manner as prescribed in section 14103 of this title.

(3) RECORD CONSIDERED BY BOARD.-The special selection board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the board that considered the officer or former officer. That record shall be compared with the records of a sampling of those officers of the same grade and competitive category who were recommended for promotion, and those officers of the same grade and competitive category who were not recommended for promotion, by that board.

(4) EFFECT.-If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer whose name was referred to it for consideration, the officer or former officer incurs no additional failure of selection for promotion.

(c) REPORT OF BOARD.-Each special selection board convened under this section shall submit to the Secretary of the Air Force a written report, signed by each member of the board, containing the name of each officer or former officer it recommends for promotion and certifying that the board has carefully considered the record of each officer or former officer whose name was referred to it.

(d) APPLICABLE PROVISIONS.-The provisions of sections 20215 and 20216 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a selection board convened under section 20211 of this title.

(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.-

(1) PROMOTION.-An officer or former officer whose name is placed on a promotion list as a result of a recommendation for promotion by a special selection board convened under this section shall, as soon as practicable, be appointed to the next higher grade in accordance with



the law and policies which would have been applicable had the officer or former officer been recommended for promotion by the board which should have considered or which did consider the officer or former officer.

(2) STATUS OF PROMOTED OFFICER.-An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the Space Force officer list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

(3) Correction of military record.-If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary of the Air Force may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

(f) PRESCRIBING OF CIRCUMSTANCES FOR CONSIDERATION BY BOARD.-The Secretary of Defense may prescribe by regulation-

(1) the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer; and

(2) time limits within which ~~of an~~ officer or former officer must make such application in order to be considered by a special selection board under this section.

(g) CONVENING OF BOARDS.-A board convened under this section-

(1) shall be convened under regulations prescribed by the Secretary of Defense;

(2) shall be composed in accordance with section 20212 of this title and regulations prescribed by the Secretary of the Air Force; and

(3) shall be subject to the provisions of section 613 of this title.

(h) Limitation of Other Jurisdiction.-No official or court of the United States shall have power or jurisdiction-

(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under this chapter until-

(A) the claim has been referred to a special selection board by the Secretary of the Air Force and acted upon by that board; or

(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

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

(i) Judicial Review.-<sup>(1)</sup> A court of the United States may review a determination by the Secretary of the Air Force under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary, who shall provide for consideration of the officer or former officer by a special selection board under this section.

(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary, who shall provide the officer or former officer reconsideration by a new special selection board.

(j) Designation of Boards.-The Secretary of the Air Force may designate a promotion board convened under section 20201(a) of this title as a special selection board convened under this section.

(k) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by the President by Executive order, any Executive order issued before December 22, 2023, relating to functions of the President under sections 618 and 628 of this title shall apply in the same manner to functions of the President under this section.

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## CHAPTER 2009-RETENTION AND SEPARATION GENERALLY

Sec.

20401.

Applicability of certain provisions of law related to separation.

20402.

Enlisted members: standards and qualifications for retention.

20403.

Officers: standards and qualifications for retention.

20404.

Selection of officers for early retirement or discharge.

~~20404~~20405.

Force shaping authority.

### §20401. Failure of selection for promotion

(a) OFFICER SEPARATION.-Except as specified in this section or otherwise modified in this chapter, the provisions of chapter 59 of this title applicable to officers of a regular component shall apply to officers of the Space Force.

(b) Except as specified in this section or otherwise modified in this chapter, the provisions of sections 1169, 1170, 1171, 1173, 1174(b), and 1176(a) of chapter 59 of this title applicable to enlisted members of a regular component shall apply to enlisted members of the Space Force.

(c) The provisions of section 1172 of this title pertaining to a person enlisted under section 518 of this title shall apply to an enlisted member of the Space Force.

(d) The provisions of section 1174 of this title-

(1) pertaining to a regular officer shall apply to a Space Force officer serving on sustained duty;

(2) pertaining to a regular enlisted member shall apply to an enlisted member of the Space Force serving on sustained duty; and

(3) pertaining to other members shall apply to members of the Space Force not serving on sustained duty.

(e) The provisions of section 1175 of this title pertaining to a voluntary appointment, enlistment, or transfer to a reserve component shall apply to the voluntary release from active duty of a member of the Space Force on sustained duty.

(f) The provisions of section 1176 of this title-

(1) pertaining to a regular enlisted member shall apply to an enlisted member of the Space Force serving on sustained duty; and

(2) pertaining to a reserve enlisted member serving in an active status shall apply to an enlisted member of the Space Force serving in a space force active status or on sustained duty.

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## **§20502. Retention boards**

(a) CONVENING OF BOARDS TO CONSIDER OFFICERS REQUIRED TO SHOW CAUSE.-The Secretary of the Air Force shall convene retention boards at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 20501 of this title to show cause for retention in a space force active status should be retained in a space force active status. Each retention board shall be composed of not less than three officers having the qualifications prescribed by section 20506 of this title.

(b) FAIR AND IMPARTIAL HEARING.-A retention board shall give a fair and impartial hearing to each officer required under section 20501 of this title to show cause for retention in a space force active status.

(c) EFFECT OF BOARD DETERMINATION ~~THAN~~THAT AN OFFICER HAS FAILED TO ESTABLISH THAT THE OFFICER SHOULD BE RETAINED.-

(1) If a retention board determines that the officer has failed to establish that the officer should be retained in a space force active status, the board shall recommend to the Secretary of the Air Force one of the following:

(A) That the officer be transferred to an inactive status.

(B) That the officer, if qualified under any provision of law, be retired.

(C) That the officer be discharged from the Space Force.

(2) Under regulations prescribed by the Secretary of the Air Force, an officer as to whom a retention board makes a recommendation under paragraph (1) that the officer not be retained in a space force active status may be required to take leave pending the completion of the officer's case under this chapter. The officer may be required to begin such leave at any time following the officer's receipt of the report of the retention board, including the board's recommendation for removal from a space force active status, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued

until the date on which action by the Secretary of the Air Force on the officer's case is completed or may be terminated at any earlier time.

(d) EFFECT OF BOARD DETERMINATION ~~THAN THAT~~ AN OFFICER HAS ESTABLISHED THAT THE OFFICER SHOULD BE RETAINED.-

(1) If a retention board determines that the officer has established that the officer should be retained in a space force active status, the officer's case is closed.

(2) An officer who is required to show cause for retention in a space force active status under subsection (a) of section 20501 of this title and who is determined under paragraph (1) to have established that the officer should be retained in a space force active status may not again be required to show cause for retention in a space force active status under such subsection within the one-year period beginning on the date of that determination.

(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention in a space force active status under subsection (b) of section 20501 of this title and who is determined under paragraph (1) to have established that the officer should be retained in a space force active status may again be required to show cause for retention at any time.

(B) An officer who has been required to show cause for retention in a space force active status under subsection (b) of section 20501 of this title and who is thereafter retained in an active status may not again be required to show cause for retention in a space force active status under such subsection solely because of conduct which was the subject of the previous proceedings, unless the findings or recommendations of the retention board that considered the officer's previous case are determined to have been obtained by fraud or collusion.

(4) In the case of an officer described in paragraph (2) or paragraph (3)(A), the retention board may recommend that the officer be required to complete additional training, professional education, or such other developmental programs as may be available to correct any identified deficiencies and improve the officer's performance within the Space Force.

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## **§20601. Officers: voluntary retirement for length of service**

(a) Twenty Years or More.-The Secretary of the Air Force may, upon the officer's request, retire a commissioned officer of the Space Force who has at least 20 years of service computed under section 20602 of this title, at least 10 years of which have been active service as a commissioned officer.

(b) Thirty Years or More.-A commissioned officer of the Space Force who has at least 30 years of service computed under section 20602 of this title may be retired upon the officer's request, in the discretion of the President.

(c) Forty Years or More.-Except as provided in section 20503 of this title, a commissioned officer of the Space Force who has at least 40 years of service computed under section 20602 of this title shall be retired upon the officer's request.

(d) APPLICABILITY OF PREVIOUS EXECUTIVE ORDER.—Except as otherwise provided by the President by Executive order, any Executive order issued before December 22, 2023, relating

to functions of the President under section 9318 of this title shall apply in the same manner to functions of the President under this section.

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## TITLE 17, UNITED STATES CODE

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### CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

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#### **§105. Subject matter of copyright: United States Government works**

(a) IN GENERAL.—Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

(b) COPYRIGHT PROTECTION OF CERTAIN WORKS.—Subject to subsection (c), the covered author of a covered work owns the copyright to that covered work.

(c) USE BY FEDERAL GOVERNMENT.—

(1) SECRETARY OF DEFENSE AUTHORITY.—With respect to a covered author who produces a covered work in the course of employment at a covered ~~institution described in subparagraphs (A) through (L) of subsection (d)~~(2) Department of Defense institution or program, the Secretary of Defense may direct the covered author to provide the Federal Government with an irrevocable, royalty-free, worldwide, nonexclusive license to reproduce, distribute, perform, or display such covered work for purposes of the United States Government.

(2) SECRETARY OF HOMELAND SECURITY AUTHORITY.—With respect to a covered author who produces a covered work in the course of employment at the United States Coast Guard Academy, the Secretary of Homeland Security may direct the covered author to provide the Federal Government with an irrevocable, royalty-free, world-wide, nonexclusive license to reproduce, distribute, perform, or display such covered work for purposes of the United States Government.

(3) SECRETARY OF TRANSPORTATION AUTHORITY.—With respect to a covered author who produces a covered work in the course of employment at the United States Merchant Marine Academy, the Secretary of Transportation may direct the covered author to provide the Federal Government with an irrevocable, royalty-free, world-wide, nonexclusive license to reproduce, distribute, perform, or display such covered work for purposes of the United States Government.

(2) (4) DIRECTOR OF NATIONAL INTELLIGENCE AUTHORITY.—With respect to a covered author who produces a covered work in the course of employment at ~~the covered~~

~~institution described in subsection (d)(2)(M)~~ the National Intelligence University, the Director of National Intelligence may direct the covered author to provide the Federal Government with an irrevocable, royalty-free, world-wide, nonexclusive license to reproduce, distribute, perform, or display such covered work for purposes of the United States Government.

(d) DEFINITIONS.—In this section:

(1) The term "covered author" means a civilian member of the faculty of a covered institution.

(2) The term "covered Department of Defense institution or program" means the following:

- (A) National Defense University.
- (B) United States Military Academy.
- (C) Army War College.
- (D) United States Army Command and General Staff College.
- (E) United States Naval Academy.
- (F) Naval War College.
- (G) Naval Post Graduate School.
- (H) Marine Corps University.
- (I) United States Air Force Academy.
- (J) Air University.
- (K) Space Force Senior Level Education Program.
- (L) Space Force Intermediate Level Education Program.
- ~~(K) (M) Defense Language Institute.~~
- ~~(L) United States Coast Guard Academy.~~
- ~~(M) United States Merchant Marine Academy.~~
- ~~(M) National Intelligence University.~~

~~(3) The term "covered Secretary" means—~~

~~(A) the Secretary of Transportation, with respect to the United States Merchant Marine Academy;~~

~~(B) the Secretary of Homeland Security, with respect to the United States Coast Guard Academy; or~~

~~(C) the Secretary of Defense, with respect to any other covered institution under paragraph (2).~~

~~(4)~~ (3) The term "covered work" means a literary work produced by a covered author in the course of employment at a covered institution for publication by a scholarly press or journal.

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## TITLE 18, UNITED STATES CODE

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## CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

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### §202. Definitions

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. ~~Notwithstanding section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30(c) and (d))~~ sections 502, 2105(d), and 5534 of title 5, a Reserve officer of the Armed Forces, an officer of the Space Force not serving on sustained duty pursuant to section 20105 of title 10, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States Such an officer who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. ~~A Reserve officer of the Armed Forces or an officer of the National Guard of the United States~~ Such an officer who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms "officer" and "employee" in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) The term "Member of Congress" in sections 204 and 207 means—

(1) a United States Senator; and

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) As used in this chapter, the term—

(1) "executive branch" includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

(2) "judicial branch" means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

(3) "legislative branch" means—

(A) the Congress; and

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Publishing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

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**§209. Salary of Government officials and employees payable only by United States**

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be subject to the penalties set forth in section 216 of this title.

(b) \*\*\*

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(h) This section does not prohibit a member of the reserve components of the armed forces, or a member of the Space Force, on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 [defining the term "contingency operation" for purposes of title 10] from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.

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**TITLE 37, UNITED STATES CODE**

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## CHAPTER 3—BASIC PAY

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### § 210. Pay of senior enlisted members during terminal leave and while hospitalized

(a) A noncommissioned officer of an armed force who, immediately following the completion of service as the senior enlisted member of that armed force or the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, is placed on terminal leave pending retirement shall be entitled, for not more than 60 days while in such status, to the rate of basic pay authorized for the senior enlisted member of that armed force.

\* \* \* \* \*

(c) In this section, the term “senior enlisted member” means the following:

- (1) The Sergeant Major of the Army.
- (2) The Master Chief Petty Officer of the Navy.
- (3) The Chief Master Sergeant of the Air Force.
- (4) The Sergeant Major of the Marine Corps.
- (5) ~~The senior enlisted advisor of the Space Force.~~ The Chief Master Sergeant of the Space Force.
- (6) The Master Chief Petty Officer of the Coast Guard.

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### § 414. Personal money allowance

(a) ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.—\*\*\*

(b) ALLOWANCE FOR SENIOR ENLISTED MEMBERS.—In addition to other pay or allowances authorized by this title, a noncommissioned officer is entitled to a personal money allowance of \$2,000 a year while serving as the Sergeant Major of the Army, the Master Chief Petty Officer of the Navy, the Chief Master Sergeant of the Air Force, the Sergeant Major of the Marine Corps, ~~the senior enlisted advisor of the Space Force~~ the Chief Master Sergeant of the Space Force, the Master Chief Petty Officer of the Coast Guard, the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or the Senior Enlisted Advisor to the Chief of the National Guard Bureau.

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## JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

(PUBLIC LAW 109–364; 37 U.S.C. 1009 note)

### SEC. 601. FISCAL YEAR 2007 INCREASE IN MILITARY BASIC PAY AND REFORM OF BASIC PAY RATES.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2007 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) JANUARY 1, 2007, INCREASE IN BASIC PAY.—Effective on January 1, 2007, the rates of monthly basic pay for members of the uniformed services are increased by 2.2 percent.

(c) REFORM OF BASIC PAY RATES.—Effective on April 1, 2007, the rates of monthly basic pay for members of the uniformed services within each pay grade (and with years of service computed under section 205 of title 37, United States Code) are as follows:

\* \* \* \* \*

### **ENLISTED MEMBERS<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Notwithstanding the pay rates specified in this table, the actual basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

<sup>2</sup> Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, ~~the senior enlisted advisory of the Space Force~~ Chief Master Sergeant of the Space Force, Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff is \$6,642.60, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

<sup>3</sup> In the case of members in pay grade E-1 who have served less than 4 months on active duty, the rate of basic pay is \$1,203.90.

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## **WILLIAM M. (MAC) THORNBERRY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2021 (PUBLIC LAW 116-283; 37 U.S.C. 416 note)**

### **SEC. 606. ONE-TIME UNIFORM ALLOWANCE FOR OFFICERS WHO TRANSFER TO THE SPACE FORCE.**

(a) IN GENERAL.— The Secretary of the Air Force may provide an officer who transfers from the Army, Navy, Air Force, or Marine Corps to the Space Force an allowance of not more than \$400 as reimbursement for the purchase of required uniforms and equipment.

(b) RELATIONSHIP TO OTHER ALLOWANCES.—The allowance under this section is in addition to any allowance available under any other provision of law.

(c) SOURCE OF FUNDS.—Funds for allowances provided under subsection (a) in a fiscal year may be derived only from amounts authorized to be appropriated for military personnel of the Space Force for such fiscal year.

(d) APPLICABILITY.—The authority for an allowance under this section shall apply with respect to any officer described in subsection (a) who transfers to the Space Force—

(1) during the period beginning on December 20, 2019, and ending on ~~September 30, 2025~~ the last day of the transition period as defined in section 1731 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 10 U.S.C. 20001 note); and

(2) on or after the date the Secretary of the Air Force prescribes the official uniform for the Space Force.

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**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022  
(PUBLIC LAW 117–81, 135 STAT. 1680)**

**SEC. 503. AUTHORITY TO VARY NUMBER OF SPACE FORCE OFFICERS  
CONSIDERED FOR PROMOTION TO MAJOR GENERAL.**

(a) IN GENERAL.—Notwithstanding section 616(d) of title 10, United States Code, the number of officers recommended for promotion by a selection board convened by the Secretary of the Air Force under section 611(a) of title 10, United States Code, to consider officers on the Space Force active duty list for promotion to major general may not exceed the number equal to 95 percent of the total number of brigadier generals eligible for consideration by the board.

(b) TERMINATION.—The authority provided under subsection (a) shall terminate on December 31, ~~2024~~2025.

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**JAMES M. INHOFE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL  
YEAR 2023  
(PUBLIC LAW 117–362, 136 STAT. 1541)**

**SEC. 403. ADDITIONAL AUTHORITY TO VARY SPACE FORCE END STRENGTH.**

(a) IN GENERAL.— Notwithstanding section 115(g) of title 10, United States Code, upon determination by the Secretary of the Air Force that such action would enhance manning and readiness in essential units or in critical specialties, the Secretary may vary the end strength authorized by Congress for each fiscal year as follows:

(1) Increase the end strength authorized pursuant to section 115(a)(1)(A) for a fiscal year for the Space Force by a number equal to not more than 5 percent of such authorized end strength.

(2) Decrease the end strength authorized pursuant to section 115(a)(1)(A) for a fiscal year for the Space Force by a number equal to not more than 10 percent of such authorized end strength.

(b) TERMINATION.—The authority provided under subsection (a) shall terminate on ~~December 31, 2022~~ October 1, 2025.

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**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2024  
(PUBLIC LAW 118–31)**

**SEC. 1736. END STRENGTH FLEXIBILITY.**

(a) ADDITIONAL AUTHORITY TO VARY END STRENGTHS.—

(1) AUTHORITY.—Notwithstanding section 115(g) of title 10, United States Code, upon determination by the Secretary of the Air Force that such action would enhance manning and

readiness in essential units or in critical specialties, the Secretary may vary the end strength authorized by Congress for a fiscal year as follows:

(A) Increase the end strength authorized pursuant to section ~~115(a)(1)(A)~~ 115(a)(3) of such title for a fiscal year for the Space Force by a number equal to not more than 5 percent of such authorized end strength.

(B) Decrease the end strength authorized pursuant to section ~~115(a)(1)(A)~~ 115(a)(3) of such title for a fiscal year for the Space Force by a number equal to not more than 10 percent of such authorized end strength.

(2) TERMINATION.—The authority provided under paragraph (1) shall terminate on the last day of the transition period.

(b) TEMPORARY EXEMPTION FOR THE SPACE FORCE FROM END STRENGTH GRADE

RESTRICTIONS.—Sections 517 and 523 of title 10, United States Code, shall not apply to the Space Force during the transition period.

**SEC. 1737. PROMOTION AUTHORITY FLEXIBILITY**

(a) \* \* \*

(b) COORDINATION OF PROVISIONS.—

(1) For a selection board convened pursuant to subsection (a) to consider members of the Space Force for promotion in accordance with chapter 36 of such title—

(A) provisions that apply to an officer of a regular component of the Armed Forces shall apply to an officer of the Space Force; and

(B) the space force officer list shall be considered to be an active-duty list.

(2) For a selection board convened pursuant to subsection (a) to consider members of the Space Force for promotion in accordance with part III of subtitle E of such title—

(A) provisions that apply to an officer of a reserve component of the Armed Forces shall apply to an officer of the Space Force; and

(B) the space force officer list shall be considered to be a reserve active-status list.

(3) For a selection board convened pursuant to subsection (a) to consider members of the Space Force for promotion in accordance with either chapter 36 or part III of subtitle E of such title—

(A) section ~~20213~~20212 of such title shall apply to the composition of the selection board;

(B) the provisions of chapter 2005 of such title regarding officers on the space force officer list eligible to be considered for promotion to the grade of brigadier general or major general shall apply;

(C) section 20216 of such title shall apply; and

(D) the provisions of chapter 36 or part III of subtitle E of such title, as the case may be, regarding failure of selection for promotion shall apply.

(c) EFFECT OF USING NEW CHAPTER 2005 AUTHORITIES.—If the Secretary of the Air Force convenes a selection board under chapter 2005 of title 10, United States Code, as added by section 1716, to consider officers on the space force officer list in a particular grade and competitive category for selection for promotion to the 24 next higher grade, the Secretary may not convene a future selection board pursuant to subsection (a) to consider officers of the same grade and competitive category under chapter 36 or part III of subtitle E of such title.