

1 **SEC. ____ . INCREASING THE AGE LIMITATION FOR MEDICAL TREATMENT FOR**
2 **SURVIVING CHILDREN.**

3 Section 1072(2) of title 10, United States Code, is amended—

4 (1) in subparagraph (D)—

5 (A) in clause (ii), by striking “or” at the end;

6 (B) in clause (iii), by striking the semicolon at the end and inserting “; or”;

7 and

8 (C) by adding at the end following new clause:

9 “(iv) has not attained the age of 26; is the child of a member of a
10 uniformed service who died while on active duty for a period of more than
11 30 days; and is diagnosed with a qualifying mental health condition (as
12 defined by the Secretary for purposes of this section) prior to the age of 21
13 or, if enrolled in a full-time course of study at an institution of higher
14 learning approved by the administering Secretary, prior to the age of 23;”;

15 and

16 (2) in subparagraph (I)—

17 (A) in clause (ii)—

18 (i) in subclause (II), by striking “or” at the end;

19 (ii) in subclause (III), by striking the semicolon at the end and
20 inserting “; or”; and

21 (iii) by adding at the end the following new subclause:

22 “(IV) has not attained the age of 26; was in the legal
23 custody of a member of a uniformed service who died while on

1 active duty for a period of more than 30 days; and is diagnosed
2 with a qualifying mental health condition (as defined by the
3 Secretary for purposes of this section) prior to the age of 21 or, if
4 enrolled in a full-time course of study at an institution of higher
5 learning approved by the administering Secretary, prior to the age
6 of 23;” and

7 (B) in clauses (iii) and (iv), by inserting “(or, in the case of a person
8 described in clause (ii)(IV), met the requirement of this clause at the time of the
9 member’s death)” before the semicolon at the end.

[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

This proposal would expand access to medical treatment, including mental health treatment, for surviving children of servicemembers, who died while on active duty, by increasing the age limitation to qualify as a dependent child to age 26 for this select class of dependent. Access to care under this proposal would be dependent on a diagnosis of a qualifying mental health condition, such as complex or prolonged bereavement disorder or other similar conditions as determined appropriate by the Secretary of Defense.

Chapter 55 of title 10, United States Code (U.S.C.), establishes the parameters for medical and dental care for military members and their dependents. Care for dependents is premised on the definitions established in 10 U.S.C. 1072 where the term “child” is defined, for purposes of such care, as a child of a servicemember who has not reached the age of 21, or the age of 23 in the case of a child enrolled in an institution of higher learning.¹

The age of eligibility for dependent children (as defined by 10 U.S.C. 1072(2)(D)) was expanded to age 26 in 2011 by the addition of 10 U.S.C. 1110b. However, this expansion included a requirement for payment of a monthly insurance premium. Accordingly, while 10 U.S.C. 1110b expands eligibility to the age contemplated by this proposal, it does so with an additional cost to military families. This proposal would expand eligibility for coverage without

¹ The definition in this section also includes a child who is incapable of self-support because of a mental or physical incapacity that occurs.

the associated premium costs to certain individuals with a qualifying diagnosis.² Note that not all surviving dependents would qualify, only those with a qualifying diagnosis.

While the definition in 10 U.S.C. 1072(2)(D) is adequate in most circumstances, the Army Survivor Advisory Working Group noted that the current statutory age limitation fails to address long-term behavioral health and associated medical consequences experienced by surviving children of fallen servicemembers. The working group found that 15 percent of surviving children (2,600 of 17,000 children) display complex or prolonged bereavement, which may require health care beyond age 21.

By amending the definition to increase the age limitation to 26 for surviving children with a qualifying condition, the Department of Defense will have the flexibility to expand access to grief and bereavement behavioral health services, as well as other critical health services for this class of dependent that often lacks sufficient financial resources to pay for the required care or the monthly premiums contemplated by 10 U.S.C. 1110b.³

If enacted, this proposal ultimately provides extended medical and mental health care for qualifying, surviving children, thereby ensuring their ability to adapt and contribute to society as a whole.⁴

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2024 President’s Budget request that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
DHP	11.20	11.77	12.34	12.99	13.64	Defense Health Program	01	02/01	N/A
Total	11.20	11.77	12.34	12.99	13.64				

ESTIMATED INCREASED TO BENEFICIARY POPULATION BY SERVICE					
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Army	2,840	2,840	2,840	2,840	2,840

² Pending legislation in Congress (H.R.475 (117th) - Health Care Fairness for Military Families Act of 2021) seeks to eliminate the premium imposed by 10 U.S.C. 1110b.

³ The age of 26 was selected for consistency with the age limitation found in 10 U.S.C. 1110b. However, unlike 10 U.S.C. 1110b a premium would not be imposed for this beneficiary class.

⁴ This proposal would also extend care to individuals under the age of 26 who were in the legal custody of a servicemember when the servicemember died so long as the death occurred while on active duty.

Navy	576	576	576	576	576
Air Force	542	542	542	542	542
Marines	416	416	416	416	416
Total	4,374	4,374	4,374	4,374	4,374

Changes to Existing Law: This proposal would amend section 1072 of title 10, United States Code, as follows:

§ 1072. Definitions

In this chapter:

(1) The term “uniformed services” means the armed forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

(2) The term “dependent”, with respect to a member or former member of a uniformed service, means—

(A) the spouse;

(B) the unremarried widow;

(C) the unremarried widower;

(D) a child who—

(i) has not attained the age of 21;

(ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support; or

(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support; or

(iv) has not attained the age of 26; is the child of a member of a uniformed service who died while on active duty for a period of more than 30 days; and is diagnosed with a qualifying mental health condition (as defined by the Secretary for purposes of this section) prior to the age of 21 or, if enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, prior to the age of 23;

(E) a parent or parent-in-law who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support and residing in his household;

(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have

medical coverage under an employer-sponsored health plan;

(G) a person who (i) is the unmarried former spouse of a member or former member who performed at least 20 years of service which is creditable in determining the member or former member's eligibility for retired or retainer pay, or equivalent pay, and on the date of the final decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member's eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

(H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree; and

(I) an unmarried person who—

(i) is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months;

(ii) either—

(I) has not attained the age of 21;

(II) has not attained the age of 23 and is enrolled in a full time course of study at an institution of higher learning approved by the administering Secretary; or

(III) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this subparagraph pursuant to subclause (I) or (II); or

(IV) has not attained the age of 26; was in the legal custody of a member of a uniformed service who died while on active duty for a period of more than 30 days; and is diagnosed with a qualifying mental health condition (as defined by the Secretary for purposes of this section) prior to the age of 21 or, if enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, prior to the age of 23;

(iii) is dependent on the member or former member for over one-half of the person's support (or, in the case of a person described in clause (ii)(IV), met the requirement of this clause at the time of the member's death);

(iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe (or, in the case of a person described in clause (ii)(IV), met the requirement of this clause at

the time of the member's death); and

(v) is not a dependent of a member or a former member under any other subparagraph.

(3) The term “administering Secretaries” means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.

(4) The term “Civilian Health and Medical Program of the Uniformed Services” means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

(5) The term “covered beneficiary” means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.

(6) The term “child”, with respect to a member or former member of a uniformed service, means the following:

(A) An unmarried legitimate child.

(B) An unmarried adopted child.

(C) An unmarried stepchild.

(D) An unmarried person—

(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense), or by any other source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption of the person by the member or former member; and

(ii) who otherwise meets the requirements specified in paragraph (2)(D).

(7) The term “TRICARE program” means the various programs carried out by the Secretary of Defense under this chapter and any other provision of law providing for the furnishing of medical and dental care and health benefits to members and former members of the uniformed services and their dependents, including the following health plan options:

(A) TRICARE Prime.

(B) TRICARE Select.

(C) TRICARE for Life.

(8) The term “custodial care” means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

(A) can be rendered safely and reasonably by a person who is not medically skilled; or

(B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term “domiciliary care” means care provided to a patient in an institution or homelike environment because—

(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

(B) members of the patient's family are unwilling to provide the care.

(10) The term “health care” includes mental health care.

(11) The term “TRICARE Extra” means the preferred-provider option of the TRICARE program made available prior to January 1, 2018, under which TRICARE Standard beneficiaries may obtain discounts on cost sharing as a result of using TRICARE network providers.

(12) The term “TRICARE Select” means the self-managed, preferred-provider network option under the TRICARE program established by section 1075 of this title.

(13) The term “TRICARE for Life” means the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of this title.

(14) The term “TRICARE Prime” means the managed care option of the TRICARE program.

(15) The term “TRICARE Standard” means the TRICARE program made available prior to January 1, 2018, covering health benefits contracted for under the authority of section 1079(a) or 1086(a) of this title and subject to the same rates and conditions as apply to persons covered under those sections.

1 **SEC. ____ . AMENDMENTS TO THE MILITARY AVIATION AND INSTALLATION**
2 **ASSURANCE CLEARINGHOUSE FOR REVIEW OF MISSION**
3 **OBSTRUCTIONS.**

4 (a) AMENDMENTS RELATING TO PROJECTS PROPOSED WITHIN TWO NAUTICAL MILES OF
5 ANY INTERCONTINENTAL BALLISTIC MISSILE LAUNCH FACILITY OR CONTROL CENTER.—Section
6 183a of title 10, United States Code, is amended—

7 (1) in subsection (c)(7)—

8 (A) by inserting “within two nautical miles of any intercontinental ballistic
9 missile launch facility or control center,” after “any project proposed”; and

10 (B) by inserting a comma after “within a military training route”;

11 (2) in subsection (d)(2)—

12 (A) in subparagraph (B), by inserting “or any intercontinental ballistic
13 missile launch facility or control center” after “military training routes”;

14 (B) in subparagraph (E), by striking “or a Deputy Under Secretary of
15 Defense” and inserting “a Deputy Under Secretary of Defense, or the Assistant
16 Secretary of Defense for Energy, Installations, and Environment”; and

17 (3) in subsection (e)(1)—

18 (A) by inserting after the first sentence the following: “In the case of any
19 energy project or antenna structure project with proposed structures located within
20 two nautical miles of an intercontinental ballistic missile launch facility or control
21 center, the Secretary of Defense shall issue a finding of unacceptable risk to
22 national security for such project if the mitigation actions do not include removal

1 of all such proposed structures from the project after receiving notice of presumed
2 risk from the Clearinghouse under subsection (c)(2).”; and

3 (B) by striking “The Secretary of Defense’s finding of unacceptable risk to
4 national security” and inserting “Any finding of unacceptable risk to national
5 security by the Secretary of Defense under this paragraph”.

6 (b) ANTENNA STRUCTURE PROJECT DEFINED.—Section 183a(h) of such title is amended
7 by adding at the end the following new paragraph:

8 “(10) The term ‘antenna structure project’ means a structure located within two
9 nautical miles of any intercontinental ballistic missile launch facility or control center that
10 is constructed or used to transmit radio energy or that is constructed or used for the
11 primary purpose of supporting antennas to transmit or receive radio energy (or both), and
12 any antennas and other appurtenances mounted on the structure, from the time
13 construction of the supporting structure begins until such time as the supporting structure
14 is dismantled. The term does not include any project in support of or required by an
15 intercontinental ballistic missile launch facility or control center.”.

16 (c) CONFORMING AMENDMENTS.—Section 183a of such title is further amended—

17 (1) by inserting “or antenna structure projects” after “energy projects” each place
18 it appears—

19 (A) in subsection (b)(1); and

20 (B) in paragraphs (5) and (7) of subsection (c); and

21 (2) by inserting “or antenna structure project” after “energy project” each place it
22 appears—

23 (A) in subsection (b)(2);

- 1 (B) in subsection (c)(1) in the matter preceding subparagraph (A);
- 2 (C) in subparagraphs (A) and (B) of subsection (c)(1);
- 3 (D) in paragraphs (2), (4), (6), and (8) of subsection (c);
- 4 (E) in subsection (e)(1);
- 5 (F) in subsection (f); and
- 6 (G) in subsection (h)(4).

[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

Currently, 46 intercontinental ballistic missile (ICBM) launch facilities and missile alert facilities are encroached by wind turbines within 2 nautical miles of the facilities. Enactment of this legislative proposal would help prevent further encroachment of all 495 ICBM launch facilities and missile alert facilities. The wind turbines create substantial obstacles to the safe operation of Air Force helicopters in and around facilities. The helicopters are responsible for multiple mission sets, such as reconnaissance, troop insertion, and providing overwatch and site defense. Air Force Global Strike Command (AFGSC) helicopters and Security Forces must be prepared and ready to conduct nuclear security operations 24/7 every day of the year, regardless of weather or other conditions. Structures such as wind turbines not only create permanent obstacles that reduce security options, they also create substantial flight safety risks for low-level flight operations. Between 1982 and 2022, 22% of all Air Force helicopter Class A mishaps and 11% of all Air Force aviation mishaps involved controlled flight into terrain or obstructions. Thus, structures over 200 feet high within 2 nautical miles of any intercontinental ballistic missile launch facility or control center create an adverse impact on military operations, which can result in an unacceptable risk to national security.

This proposal would amend section 183a of title 10, United States Code, by including antenna structure projects located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center. Currently, as written, section 183a only provides clear statutory direction and processes for the OSD Military Aviation and Installation Assurance Siting Clearinghouse (“Clearinghouse”) to coordinate review of “energy projects” filed with the Department of Transportation (DOT), in accordance with section 44718 of title 49, United States Code. Therefore, there is not clear authority for the Clearinghouse to review and the Secretary of Defense to object to antenna structure projects located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center filed with the DOT, such as cellular communication towers over 200 feet in height. Including antenna structure projects ensures that the Department of Defense, the Services, the Combatant Commands, and the

Defense Agencies have clear authority to review antenna structure projects located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center filed with DOT pursuant to 49 U.S.C. 44718. Currently, the Air Force is unable to leverage section 183a to review projects involving cellular towers near any intercontinental ballistic missile launch facility or control center. The enactment of this legislative proposal will likely result in more projects requiring review and coordination by the Clearinghouse, the Departments, Combatant Commands, and Agencies. However, the enactment of this legislative proposal is narrowly tailored to only include antenna structure projects located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center.

Subsection (c)(7) of section 183a would be amended by inserting “within two nautical miles of any intercontinental ballistic missile launch facility or control center,” before “within a military training route”. Subsection (c) addresses how the Clearinghouse and DoD review proposed actions. This amendment will clarify that Clearinghouse procedures and outreach actions with project developers must include early filing procedures for projects that are within 2 nautical miles of any intercontinental ballistic missile launch facility or control center. As currently drafted, subsection (c)(7) only requires such procedures and early filing by developers for projects near military training routes or surveillance radars. The enactment of this legislative proposal may result in additional projects requiring review and coordination by the Clearinghouse, the Departments, Combatant Commands, and Agencies. However, the enactment of this legislative proposal will ensure the Clearinghouse, the Departments, Combatant Commands, and Agencies have sufficient time to review projects that could impact ICBM operations.

Subsection (d)(2)(B) of section 183a would be amended by inserting “or any intercontinental ballistic missile launch facility or control center” after “military training routes.” Subsection (d) directs the Secretary of Defense to develop a comprehensive strategy for addressing the impact of projects filed with DOT upon the military. Subparagraph (B) specifically directs that within the strategy development, the Secretary of Defense shall, as part of the project review process in subsection (c), identify distinct geographic areas where projects “could have an adverse impact on military operations and readiness.” Currently, subparagraph (B) only specifically mentions training routes. This amendment will enable the Department of Defense to identify in advance those intercontinental ballistic missile launch facilities or control centers where it is reasonably likely that projects could be filed that could have an adverse impact on military operations and readiness. This advance review and assessment will enable the Department of Defense to better keep pace with the rapid evolution and growth of wind turbines and cellular communication towers near our vital ICBM facilities. The enactment of this legislative proposal will require additional effort by the Clearinghouse and the Departments, Combatant Commands and Agencies. However, the enactment of this legislative proposal will help avoid a previous inability to identify encroaching projects near nuclear deterrence facilities and the subsequent DOT approval of those projects, which resulted in the encroachment of 46 nuclear launch facilities (ICBMs) and missile alert facilities.

Subsection (d)(2) of section 183a would be further amended by inserting “, or the Assistant Secretary of Defense for Energy, Installations, and Environment” (ASD(EI&E)), which would enable the Secretary of Defense to delegate to the ASD(EI&E) the authority to make a final

finding on the designation of a geographic area of concern. This is necessary because the concern maps are outreach tools that assist the Department in getting the message out to industry about how to avoid impacting military missions. The maps do not block projects or create new prohibitions. It would be beneficial to create many of these maps and ASD(EI&E) is the appropriate signatory for them.

The addition of a new sentence within subsection (e)(1) of section 183a provides that any proposed energy or antenna project structure within 2 nautical miles of any intercontinental ballistic missile launch facility or control center will receive a determination of unacceptable risk to national security if the project proponent does not remove the structure from the area during the mitigation process. The enactment of this proposal is necessary because it provides clarity that DoD requires the protection around all intercontinental ballistic missile launch facilities or control centers. Without the enactment of this proposal, developers treat the 2 nautical mile discussion as a “starting point” for negotiation. DoD will continue to engage developers and seek solutions, but not within 2 nautical miles of any intercontinental ballistic missile launch facility or control center. Enactment of this proposal also expedites the finding of unacceptable risk to national security. Without the enactment of this proposal, every affected project requires resource-heavy production and coordination of military impact statements to facilitate the USD(A&S) determination. The enactment of this proposal will not create a per se legislative taking of land. The finding of unacceptable risk to national security is not a final action that prohibits landowners from using their land. Unlike final actions from environmental regulatory agencies which can prohibit certain actions on land, the failure of the Department of Transportation to issue a Finding of No Hazard does not prohibit landowners from constructing projects. (*See Buddy Taylor v. United States*, 959 F.3d 1081 (Fed. Cir. 2020)).

Lastly, subsection (h) would be amended by adding a new paragraph (10) to provide a definition for “antenna structure project.” The proposed definition of “antenna structure project” relies substantially on the text used by the Federal Communications Commission (FCC) in 47 C.F.R. Part 17.2, which specifies which projects within the FCC’s jurisdiction must also be filed with the FAA consistent with section 44718 of title 49, U.S.C. The proposed definition is limited in scope to ensure the enactment of this legislative proposal would only address telecommunications projects that currently must be filed with the FAA and are also located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center. (See also 47 C.F.R. Part 17.7). The proposal does not change or alter any of the existing requirements for filing projects with the FAA. The enactment of this legislative proposal would ensure that the Department of Defense, the Services, the Combatant Commands, and the Defense Agencies have clear authority to review antenna structure projects already filed with the FAA and located within 2 nautical miles of any intercontinental ballistic missile launch facility or control center.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2024 President’s Budget request.

Changes to Existing Law: This proposal would amend section 183a of title 10, United States Code, as follows:

§ 183a. Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions

(a) Establishment.—(1) The Secretary of Defense shall establish a Military Aviation and Installation Assurance Siting Clearinghouse (in this section referred to as the “Clearinghouse”).

(2) The Clearinghouse shall be—

(A) organized under the authority, direction, and control of an Assistant Secretary of Defense designated by the Secretary; and

(B) assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

(b) Functions.—(1) The Clearinghouse shall coordinate Department of Defense review of applications for energy projects or antenna structure projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 and received by the Department of Defense from the Secretary of Transportation. In performing such coordination, the Clearinghouse shall provide procedures to ensure affected local military installations are consulted.

(2) The Clearinghouse shall accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for an energy project or antenna structure project submitted pursuant to such section.

(3) The Clearinghouse shall perform such other functions as the Secretary of Defense assigns.

(c) Review of proposed actions.—(1) Not later than 75 days after receiving from the Secretary of Transportation a proper application for an energy project or antenna structure project under section 44718 of title 49 that may have an adverse impact on military operations and readiness, the Clearinghouse shall conduct a preliminary review of such application. The review shall—

(A) assess the likely scope, duration, and level of risk of any adverse impact of such energy project or antenna structure project on military operations and readiness; and

(B) identify any feasible and affordable actions that could be taken by the Department, the developer of such energy project or antenna structure project, or others to mitigate the adverse impact and to minimize risks to national security while allowing the energy project or antenna structure project to proceed with development.

(2) (A) If the Clearinghouse finds under paragraph (1) that an energy project or antenna structure project will have an adverse impact on military operations and readiness, the Clearinghouse shall issue to the applicant a notice of presumed risk that describes the concerns identified by the Department in the preliminary review and requests a discussion of possible mitigation actions.

(B) After the Clearinghouse issues a notice under subparagraph (A) with respect to an energy project or antenna structure project, the parties should seek to identify feasible and affordable actions that can be taken by the Department, the developer of such energy project or antenna structure project, or others to mitigate any adverse impact on military operations and readiness.

(C) A notice of presumed risk issued under subparagraph (A) is a preliminary assessment only and does not represent a formal objection pursuant to subsection (e). Discussions of possible mitigation actions under such subparagraph could favorably resolve any concerns identified in the notice of presumed risk.

(3) At the same time that the Clearinghouse issues to the applicant a notice of presumed risk under paragraph (2), the Clearinghouse shall provide the same notice to the governor of the State in which the project is located and request that the governor provide the Clearinghouse any

comments the governor believes of relevance to the application. The Secretary of Defense shall consider the comments of the governor in the Secretary's evaluation of whether the project presents an unacceptable risk to the national security of the United States and shall include the comments with the finding provided to the Secretary of Transportation pursuant to section 44718(f) of title 49.

(4) If, after issuing the notices of presumed risk required by paragraphs (2) and (3), the Secretary of Defense later concludes for any reason that the energy project or antenna structure project will not have an adverse impact on military readiness, the Clearinghouse shall notify the applicant and the governor in writing of that conclusion.

(5) The Clearinghouse shall develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of energy projects or antenna structure projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 that may have an adverse impact on military operations and readiness.

(6) The Clearinghouse shall establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from another Federal agency, a State government, an Indian tribal government, a local government, a landowner, or the developer of an energy project or antenna structure project, including guidance to personnel at each military installation in the United States on how to initiate such procedures and ensure a coordinated Department response.

(7) The Clearinghouse shall develop procedures for conducting early outreach to parties carrying out energy projects or antenna structure projects that could have an adverse impact on military operations and readiness and to clearly communicate to such parties actions being taken by the Department of Defense under this section. The procedures shall provide for filing by such parties of a project area and preliminary project layout at least one year before expected construction of any project proposed within two nautical miles of any intercontinental ballistic missile launch facility or control center, within a military training route, or within line-of-sight of any air route surveillance radar, airport surveillance radar, or wide area surveillance over-the-horizon radar operated or used by the Department of Defense in order to provide adequate time for analysis and negotiation of mitigation options. Material marked as proprietary or competition sensitive by a party filing for this preliminary review shall be protected from public release by the Department of Defense.

(8) If, in reviewing an application for an energy project or antenna structure project pursuant to paragraph (1), the Clearinghouse finds no adverse impact on military operations under section 44718(b)(1) of title 49, the Clearinghouse shall communicate to the Secretary of Transportation in writing, not later than five business days after making such finding, the following: "No Part 77 concerns, national security review ongoing."

(d) Comprehensive review.—(1) The Secretary of Defense shall develop a comprehensive strategy for addressing the impacts upon the military of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49.

(2) In developing the strategy required by paragraph (1), the Secretary shall—

(A) assess the magnitude of interference posed by projects filed with the Secretary of Transportation pursuant to section 44718 of title 49;

(B) solely for the purpose of informing preliminary reviews under subsection (c)(1) and early outreach efforts under subsection (c)(5), identify distinct geographic areas selected as proposed

locations for projects filed, or for projects that are reasonably expected to be filed in the near future, with the Secretary of Transportation pursuant to section 44718 of title 49 where the Secretary of Defense can demonstrate such projects could have an adverse impact on military operations and readiness, including military training routes or any intercontinental ballistic missile launch facility or control center, and categorize the risk of adverse impact in such areas;

(C) develop procedures for the initial identification of such geographic areas identified under subparagraph (B), to include a process to provide notice and seek public comment prior to making a final designation of the geographic areas, including maps of the area and the basis for identification;

(D) develop procedures to periodically review and modify, consistent with the notice and public comment process under subparagraph (C), geographic areas identified under subparagraph (B) and to solicit and identify additional geographic areas as appropriate;

(E) at the conclusion of the notice and public comment period conducted under subparagraph (C), make a final finding on the designation of a geographic area of concern or delegate the authority to make such finding to the Deputy Secretary of Defense, an Under Secretary of Defense, ~~or~~ a Deputy Under Secretary of Defense, or the Assistant Secretary of Defense for Energy, Installations, and Environment; and

(F) specifically identify feasible and affordable long-term actions that may be taken to mitigate adverse impacts of projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, on military operations and readiness, including—

(i) investment priorities of the Department of Defense with respect to research and development;

(ii) modifications to military operations to accommodate applications for such projects;

(iii) recommended upgrades or modifications to existing systems or procedures by the Department of Defense;

(iv) acquisition of new systems by the Department and other departments and agencies of the Federal Government and timelines for fielding such new systems; and

(v) modifications to the projects for which such applications are filed with the Secretary of Transportation pursuant to section 44718 of title 49, including changes in size, location, or technology.

(3) The governor of a State may recommend to the Secretary of Defense additional geographical areas of concern within that State. Any such recommendation shall be submitted for notice and comment pursuant to paragraph (2)(C).

(4) The Clearinghouse shall make access to data reflecting geographic areas identified under subparagraph (B) of paragraph (2) and reviewed and modified under subparagraph (C) of such paragraph available online.

(e) Department of Defense finding of unacceptable risk.—(1) The Secretary of Defense may not object to an energy project or antenna structure project filed with the Secretary of Transportation pursuant to section 44718 of title 49, except in a case in which the Secretary of Defense determines, after giving full consideration to mitigation actions identified pursuant to this section, that such project, in isolation or cumulatively with other projects, would result in an unacceptable risk to the national security of the United States. In the case of any energy project or antenna structure project with proposed structures located within two nautical miles of an

intercontinental ballistic missile launch facility or control center, the Secretary of Defense shall issue a finding of unacceptable risk to the national security of the United States for such project if the mitigation actions do not include removal of all such proposed structures from the project after receiving notice of presumed risk from the Clearinghouse under subsection (c)(2). The Secretary of Defense's finding of unacceptable risk to national security Any finding of unacceptable risk to the national security of the United States by the Secretary of Defense under this paragraph shall be transmitted to the Secretary of Transportation for inclusion in the report required under section 44718(b)(2) of title 49.

(2)(A) Not later than 30 days after making a finding of unacceptable risk under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on such finding and the basis for such finding. Such report shall include an explanation of the operational impact that led to the finding, a discussion of the mitigation options considered, and an explanation of why the mitigation options were not feasible or did not resolve the conflict. The report may include a classified annex. Unclassified reports shall also be provided to the project proponent. The Secretary of Defense may provide public notice through the Federal Register of the finding.

(B) The Secretary of Defense shall notify the appropriate State agency of a finding made under paragraph (1).

(3) The Secretary of Defense may only delegate the responsibility for making a finding of unacceptable risk under paragraph (1) to the Deputy Secretary of Defense, an Under Secretary of Defense, or a Deputy Under Secretary of Defense.

(4) The Clearinghouse shall develop procedures for making a finding of unacceptable risk, including with respect to how to implement cumulative effects analysis. Such procedures shall be subject to public comment prior to finalization.

(f) Authority to accept contributions of funds.—The Secretary of Defense is authorized to request and accept a voluntary contribution of funds from an applicant for an energy project or antenna structure project. Amounts so accepted shall remain available until expended for the purpose of offsetting the cost of measures undertaken by the Secretary of Defense to mitigate adverse impacts of such a project on military operations and readiness or to conduct studies of potential measures to mitigate such impacts.

(g) Effect of Department of Defense hazard assessment.—An action taken pursuant to this section shall not be considered to be a substitute for any assessment or determination required of the Secretary of Transportation under section 44718 of title 49.

(h) Definitions.—In this section:

(1) The term “adverse impact on military operations and readiness” means any adverse impact upon military operations and readiness, including flight operations, research, development, testing, and evaluation, and training, that is demonstrable and is likely to impair or degrade the ability of the armed forces to perform their warfighting missions.

(2) The term “energy project” means a project that provides for the generation or transmission of electrical energy.

(3) The term “governor”, with respect to a State, means the chief executive officer of the State.

(4) The term “landowner” means a person that owns a fee interest in real property on which a

proposed energy project or antenna structure project is planned to be located.

(5) The term “military installation” has the meaning given that term in section 2801(c)(4) of this title.

(6) The term “military readiness” includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

(7) The term “military training route” means a training route developed as part of the Military Training Route Program, carried out jointly by the Administrator of the Federal Aviation Administration and the Secretary of Defense, for use by the armed forces for the purpose of conducting low-altitude, highspeed military training.

(8) The term “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

(9) The term “unacceptable risk to the national security of the United States” means the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill, that the Secretary of Defense can demonstrate would—

(A) endanger safety in air commerce directly related to the activities of the Department of Defense;

(B) interfere with the efficient use of the navigable airspace directly related to the activities of the Department of Defense; or

(C) significantly impair or degrade the capability of the Department of Defense to conduct training, research, development, testing, and evaluation, and operations or to maintain military readiness.

(10) The term “antenna structure project” means a structure located within two nautical miles of any intercontinental ballistic missile launch facility or control center that is constructed or used to transmit radio energy or that is constructed or used for the primary purpose of supporting antennas to transmit or receive radio energy (or both), and any antennas and other appurtenances mounted on the structure, from the time construction of the supporting structure begins until such time as the supporting structure is dismantled. The term does not include any project in support of or required by an intercontinental ballistic missile launch facility or control center.

1 **SEC. ____ . MODIFICATIONS TO DEPARTMENT BASE CLOSURE AND**
2 **REALIGNMENT PROCEDURES.**

3 Section 2687 of title 10, United States Code, is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “300” and inserting “1000”; and

6 (B) in paragraph (2), by striking “or by more than 50 percent.”;

7 (2) in subsection (b)—

8 (A) in paragraph (1)—

9 (i) in the matter preceding subparagraph (A), by striking “the

10 Committee on Armed Services” and all that follows through

11 “authorization of appropriations to such Committees,” and inserting “the

12 Committees on Armed Services of the Senate and House of

13 Representatives, and the Governor of the State in which the military

14 installation is located if the closure or realignment affects basing or

15 stationing of units of the National Guard in that State.”; and

16 (ii) in subparagraph (B)(i), by striking “both the existing and

17 receiving communities” and inserting “the receiving community”; and

18 (B) in paragraph (2), by striking “30 legislative days or 60 calendar days,

19 whichever is longer,” and inserting “90 days”;

20 (3) by amending subsection (c) to read as follows:

21 “(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

1 “(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C.
2 4321 et seq.) shall not apply to the actions of the Secretary of Defense or the Secretary of
3 the military department concerned except as provided in paragraph (2).

4 “(2)(A) The provisions of the National Environmental Policy Act of 1969 shall
5 apply to actions of the Department of Defense under this section (i) during the process of
6 property disposal, and (ii) during the process of relocating functions from a military
7 installation being closed or realigned to another military installation after the receiving
8 installation has been selected but before the functions are relocated.

9 “(B) In applying the provisions of the National Environmental Policy Act of 1969
10 to the processes referred to in subparagraph (A), the Secretary of Defense and the
11 Secretary of the military departments concerned shall not have to consider—

12 “(i) the need for closing or realigning the military installation which has
13 been recommended for closure or realignment by the Secretary or the Secretary of
14 the military department;

15 “(ii) the need for transferring functions to any military installation which
16 has been selected as the receiving installation; or

17 (iii) military installations alternative to those recommended or selected.

18 “(3) A civil action for judicial review, pursuant to chapter 7 of title 5, United
19 States Code (5 U.S.C. 701-706; popularly known as the Administrative Procedure Act),
20 with respect to any requirement of the National Environmental Policy Act of 1969 to the
21 extent such Act is applicable under paragraph (2), of any act or failure to act by the
22 Department of Defense during the closing, realigning, or relocating of functions referred
23 to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after

1 the date of such act or failure to act, such as publication of a Finding of No Significant
2 Impact or Record of Decision in the Federal Register.”;

3 (4) in subsection (e)(1), by striking “funds which would otherwise be available to
4 the Secretary to effect the closure or realignment of that installation may be used by him
5 for such purpose.” and inserting “notwithstanding any other provision of law, the
6 Secretary of Defense or Secretary concerned shall carry out the closure or realignment of
7 that installation, and any related property management and disposal activities, in
8 accordance with the procedures and authorities under the Defense Base Closure and
9 Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687
10 note).”;

11 (5) in subsection (f), by striking “subsection (a)” and inserting “subsection
12 (c)(2)(A)”;

13 (6) in subsection (g), by striking paragraph (4).

Section-by-Section Analysis

This proposal would enable the Department of Defense (DoD) to have greater flexibility to align its force structure and infrastructure than exists under current law. Since the Base Realignment and Closure (BRAC) 2005 round, the Department of Defense has been unable to close or realign military installations with significant numbers of personnel in almost 20 years. The current limitations in place under section 2687 of title 10, United States Code (section 2687) (enacted in 1977 and amended several times), prevent DoD from conducting any meaningful changes to its infrastructure to match force structure changes. In fact, given the current structure of section 2687, DoD has been unwilling to pursue closures or realignments under this authority. The goal of the new personnel thresholds and revised implementation procedures is to provide the Department with sufficient flexibility to make force structure and infrastructure changes concurrently and align this statute with the reduction of military personnel requirements of section 993 of title 10 (enacted in 2011).

The proposal has two components: raising the civilian personnel threshold for those installations subject to section 2687 and streamlining the procedures of section 2687. Making both changes will make it more feasible for the Department to pursue a small number of closures and realignments over time. This approach would be pursued in lieu of requesting Congress to

authorize another BRAC round and is better matched to the limited number of closures and realignments the Department envisions pursuing.

Threshold Changes:

The proposal (see changes to section 2687(a)(1)) would increase the personnel threshold from 300 civilians to 1,000 civilians for installations subject to a potential closure action. The personnel threshold for any realignment involving a reduction would remain at 1,000; however, the revision would strike the phrase “or by more than 50 per cent” in the number of civilian personnel authorized to be employed (see changes to section 2687(a)(2)). The 1,000 person threshold would then be the same as section 993 of title 10. By striking current section 2687(c), the proposal also removes the additional limitation added in 2013 that prevents any closure or realignment action from taking place within five years of a decision to reduce the civilian personnel thresholds below the levels prescribed in the statute.

Process Changes:

By striking the phrase “as part of an annual request for authorization” in section 2687(b)(1), the Department will be able to submit notification of closures and realignments above 1,000 civilian personnel to Congress at any point in the calendar year instead of only with the annual budget. The proposal also changes the congressional notice and wait period to 90 days (see changes to section 2687(b)(2)). These changes enable the Department greater flexibility to submit closure or realignment notifications rather than being bound by one particular timeframe (typically February) and aligns both the timing of the notification and the congressional review period with section 993 of title 10. The proposal also adds a requirement in section 2687(b)(1) to notify the Governor of the State in which a military installation with a proposed closure or realignment is located. DoD coordination with the Governor of the State under this revised language would be made through the Chief of the National Guard Bureau consistent with the National Guard Bureau’s role as the channel of communications with the States under section 10501 of title 10 and DoDD 5105.77.

The proposal strikes the requirement to evaluate the existing community infrastructure in section 2687(b)(1)(B)(i). Evaluating the community infrastructure at a community losing mission through a realignment or having a base closed is unnecessary, since such actions decrease the impact on infrastructure.

In a new subsection (c), the proposal inserts National Environmental Policy Act (NEPA) language consistent with the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note). Inserting this provision enables the Department to focus its environmental analysis on any receiving (growth) bases and property disposal actions instead of lengthy analysis of all reasonable alternatives to which personnel and missions may be relocated as a result of a closure or realignment. This revision will streamline the environmental process, which generally poses timeliness concerns when pursuing closures or realignments under section 2687. Together, the NEPA review and the current requirement to submit the closure and realignment notifications with the annual budget makes pursuing section

2687 closures or realignments politically and practically untenable from a planning standpoint due to opportunities for political and public opposition.

The proposal revises section 2687(e) to insert language from the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) to enable the Department to carry out closures and realignments with the same authorities as used in past BRAC rounds. This approach enables DoD to follow the established BRAC property disposal process that has successfully enabled reuse of excess property by the local community through local redevelopment authorities. It also enables actions to be executed using the BRAC account, which has increased flexibility from a fenced funding source available for property management and environmental compliance.

The proposal also deletes the term “legislative day” in section 2687(g)(4) since the term is no longer in the amended version.

The Department believes these revisions are necessary to create efficiencies and conduct required realignment within our force structure.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2024 President’s Budget.

Changes to Existing Law: This proposal would amend section 2687 of title 10, United States Code, as follows:

§2687. Base closures and realignments

(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation at which at least ~~300~~1,000 civilian personnel are authorized to be employed;

(2) any realignment with respect to any military installation referred to in paragraph (1) involving a reduction by more than 1,000, ~~or by more than 50 percent~~, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b) of the Secretary’s plan to close or realign such installation; or

(3) any construction, conversion, or rehabilitation at any military facility other than a military installation referred to in clause (1) or (2) which will or may be required as a result of the relocation of civilian personnel to such facility by reason of any closure or realignment to which clause (1) or (2) applies, unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation referred to in such subsection may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the ~~Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives~~, as part of an annual request for authorization of appropriations to such

Committees, Committees on Armed Services of the Senate and House of Representatives, and the Governor of the State in which the military installation is located if the closure or realignment affects basing or stationing of units of the National Guard in that State, of the proposed closing or realignment and submits with the notification—

(A) an evaluation of the fiscal, local economic, budgetary, environmental, strategic, and operational consequences of such closure or realignment; and

(B) the criteria used to consider and recommend military installations for such closure or realignment, which shall include at a minimum consideration of—

(i) the ability of the infrastructure (including transportation infrastructure) of ~~both the existing and receiving communities~~ community to support forces, missions, and personnel as a result of such closure or realignment; and

(ii) the costs associated with community transportation infrastructure improvements as part of the evaluation of cost savings or return on investment of such closure or realignment; and

(2) a period of ~~30 legislative days or 60 90 calendar days, whichever is longer,~~ expires following the day on which the notice and evaluation referred to in clause (1) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the Secretary of Defense or the Secretary of the military department concerned except as provided in paragraph (2).

(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this section (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider--

(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Secretary or the Secretary of the military department concerned;

(ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or

(iii) military installations alternative to those recommended or selected.

(3) A civil action for judicial review, pursuant to chapter 7 of title 5, United States Code (5 U.S.C. 701-706; popularly known as the Administrative Procedure Act), with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act, such as publication of a Finding of No Significant Impact or Record of Decision in the Federal Register.

~~(c) — No action described in subsection (a) with respect to the closure of, or realignment with respect to, any military installation referred to in such subsection may be taken within five years after the date on which a decision is made to reduce the civilian personnel thresholds below the levels prescribed in such subsection.~~

(d) This section shall not apply to the closure of a military installation, or a realignment with respect to a military installation, if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency.

(e) (1) After the expiration of the period of time provided for in subsection (b)(2) with respect to the closure or realignment of a military installation, notwithstanding any other provision of law, the Secretary of Defense or Secretary concerned shall carry out the closure or realignment of that installation, and any related property management and disposal activities, in accordance with the procedures and authorities under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note). ~~funds which would otherwise be available to the Secretary to effect the closure or realignment of that installation may be used by him for such purpose.~~

(2) Nothing in this section restricts the authority of the Secretary to obtain architectural and engineering services under section 2807 of this title.

(f) If the Secretary of Defense or the Secretary of the military department concerned determines, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), that a significant transportation impact will occur as a result of an action described in subsection ~~(a)~~ (c)(2)(A), the action may not be taken unless and until the Secretary of Defense or the Secretary of the military department concerned—

- (1) analyzes the adequacy of transportation infrastructure at and in the vicinity of each military installation that would be impacted by the action;
- (2) concludes consultation with the Secretary of Transportation with regard to such impact;
- (3) analyzes the impact of the action on local businesses, neighborhoods, and local governments; and
- (4) includes in the notification required by subsection (b)(1) a description of how the Secretary intends to remediate the significant transportation impact.

(g) In this section:

- (1) The term “military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
- (2) The term “civilian personnel” means direct-hire, permanent civilian employees of the Department of Defense.
- (3) The term “realignment” includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.
- (4) ~~The term “legislative day” means a day on which either House of Congress is in session.~~

1 **SEC. ____ . PROJECTS EXECUTED BY HOST NATIONS OTHER THAN THE UNITED**
2 **STATES UNDER THE NATO SECURITY INVESTMENT PROGRAM.**

3 Section 2350q of title 10, United States Code, is amended—

4 (1) by redesignating subsection (f) as subsection (g); and

5 (2) by inserting after subsection (e) the following new subsection:

6 “(f) CONJUNCTIVE CONTRIBUTIONS WHEN THE UNITED STATES IS NOT DESIGNATED AS
7 THE HOST NATION FOR A PROJECT.—When the United States is not designated as the Host Nation
8 for purposes of executing a project under the Program, and such project meets the minimum
9 military requirements of the North Atlantic Treaty Organization but does not fully meet the
10 requirements of the Department of Defense, the Secretary of Defense, upon determination that
11 completion of the project is in the national interest of the United States, may, notwithstanding
12 any other provision of law, provide conjunctive contributions to the designated Host Nation
13 using any unobligated funds appropriated for military construction, including appropriations
14 available for operation and maintenance when the aggregate cost of insufficient contributions for
15 a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending
16 from appropriations available for operation and maintenance for unspecified minor military
17 construction.”.

**[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

This proposal would amend section 2350q of title 10, United States Code (U.S.C.), to authorize the Secretary of Defense to transfer funds for conjunctive requirements directly to the Host Nation executing projects under the North Atlantic Treaty Organization (NATO) Security Investment Program (NSIP) following a determination that completion of the project is in the national interest of the United States. The amendment would also establish an exception to the full and open competition requirement for procurement contracts under section 3301 of title 41, U.S.C.

The NSIP is a NATO common fund that provides for the development, construction, and implementation of facilities and equipment that are required by the NATO Strategic Commanders to complete their missions. The NATO Infrastructure Committee approves NSIP funding for the portion of a project that meets but does not exceed the NATO minimum military requirement (MMR). A member state may then contribute a proportionate amount of conjunctive funding to develop the project to meet national standards that exceed the NATO MMR. For example, the NATO MMR may only require the construction of an airfield to accommodate medium-lift transport aircraft, but the Department of Defense (DoD) may require the airfield to accommodate heavy-lift strategic transport aircraft. Alternatively, a non-NATO cost share may apply to a project due to shared use by the host nation. Contributing conjunctive funds, therefore, allows the Host Nation to execute the NSIP project using a combination of NSIP funding and DoD funding to satisfy more rigorous DoD requirements.

Conjunctive funding is unavoidable when it is not possible to isolate and contract separately the U.S.-funded portion of the project, either due to operational impact (e.g., projects that require runway closure), technical features (e.g., projects for which pipe or pump sizing for the NATO portion must be increased to connect to the U.S. portion), or a NATO cost-share formula applied to dual-use (NATO and non-NATO) infrastructure. The current lack of ability to transfer funds to a Host Nation has stalled or even forced cancellation of NATO projects.

Under section 2350q(e) of title 10, U.S.C., the Secretary of Defense is authorized to obligate funds for the portion of the project that exceeds the MMR following a determination that completion of the project is in the national interest of the United States. This authority, however, only extends to projects for which the United States is designated as the Host Nation for purposes of executing a project under the NSIP. When a country other than the United States is designated as the Host Nation responsible for designing, contracting, and executing the NSIP project, the Secretary lacks the statutory authority to provide conjunctive funding to the host nation for U.S. requirements that exceed the MMR. Under section 1301(a) of title 31, U.S.C., commonly known as the “Purpose Statute”, the Department is prohibited from providing appropriated funds for a purpose other than for which the appropriations were made without specific statutory authority. This proposal would authorize the Secretary to provide funds for U.S. conjunctive requirements to the Host Nation executing projects under the NSIP, thereby satisfying the Purpose Statute.

Moreover, section 3301 of title 41, U.S.C. (originally enacted as part of the Competition in Contracting Act of 1984), requires the Department to obtain full and open competition for procurement contracts through the use of competitive procedures, unless otherwise expressly authorized by statute. This legislative proposal would create an exception to the full and open competition requirement of section 3301, allowing the Secretary to provide funds for U.S. conjunctive requirements without following the prescribed competition procedures for the award of contracts pursuant to the Competition in Contracting Act.

Amending section 2350q of title 10, U.S.C., to authorize the Secretary of Defense to provide conjunctive contributions to the designated Host Nation executing an NSIP project avoids the construction of similar projects within the same region, ultimately reducing costs to

DoD by allowing for the contribution of funds to meet DoD’s mission requirements that exceed the MMR. This proposal is also consistent with DoD policy, which specifies that facilities required to support U.S. NATO-assigned forces and NATO operational plans shall be funded, to the maximum extent possible, through NSIP (DoD Directive 2010.05 *The North Atlantic Treaty Organization (NATO) Security Investment Program*, December 13, 2004).

Budget Implications: The FY24 NSIP funding request is listed in the table below and reflects the best estimate of resources requested within the Fiscal Year (FY) 2024 President’s Budget that are impacted by this proposal. We are not able to isolate the precise impact of the authority to provide conjunctive contributions due to several factors outside of DoD control.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
NSIP	293.434	353.069	428.929	525.095	646.670	NATO Security Investment Program (0804D)	01	D96D0005	
Total	293.434	353.069	428.929	525.095	646.670				

Changes to Existing Law: This proposal would amend section 2350q of title 10, United States Code, as follows:

§ 2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program

(a) **AUTHORITY TO EXECUTE PROJECTS.**—When the United States is designated as the Host Nation for purposes of executing a project under the North Atlantic Treaty Organization Security Investment Program (in this section referred to as the ‘Program’), the Secretary of Defense may accept such designation and carry out such project consistent with the requirements of this section.

(b) **PROJECT FUNDING.**—The Secretary of Defense may fund authorized expenditures of projects accepted under subsection (a) with—

- (1) contributions under subsection (c);
- (2) appropriations of the Department of Defense for the Program when directed by the North Atlantic Treaty Organization to apply amounts of such appropriations as part of the share of contributions of the United States for the Program; or
- (3) any combination of amounts described in paragraphs (1) and (2).

(c) **AUTHORITY TO ACCEPT CONTRIBUTIONS.**—(1) The Secretary of Defense may accept contributions from the North Atlantic Treaty Organization and member nations of the North Atlantic Treaty Organization for the purpose of carrying out a project under subsection (a).

(2) Contributions accepted under paragraph (1) shall be placed in an account established for the purpose of carrying out the project for which the funds were provided and shall remain available until expended.

(3)(A) If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to—

(i) the appropriations used for the project or portion thereof, if such appropriations have not yet expired; or

(ii) the appropriations for the Program, if the appropriations described in clause (i) have expired.

(B) Funding credited under subparagraph (A) shall merge with and remain available for the same purposes and duration as the appropriations to which credited.

(d) OBLIGATION AUTHORITY.—The construction agent of the Department of Defense designated by the Secretary of Defense to execute a project under subsection (a) may recognize the North Atlantic Treaty Organization project authorization amounts as budgetary resources to incur obligations against for the purposes of executing the project.

(e) INSUFFICIENT CONTRIBUTIONS.—(1) In the event that the North Atlantic Treaty Organization does not agree to contribute funding for all costs necessary for the Department of Defense to carry out a project under subsection (a), including necessary personnel costs of the construction agent designated by the Department of Defense, contract claims, and any conjunctive funding requirements that exceed the project authorization or standards of the North Atlantic Treaty Organization, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may fund such costs, and undertake such conjunctively funded requirements not otherwise authorized by law, using any unobligated funds available among funds appropriated for the Program for military construction.

(2) The use of funds under paragraph (1) from appropriations for the Program may be in addition to or in place of any other funding sources otherwise available for the purposes for which those funds are used.

(f) CONJUNCTIVE CONTRIBUTIONS WHEN THE UNITED STATES IS NOT DESIGNATED AS THE HOST NATION FOR A PROJECT.—When the United States is not designated as the Host Nation for purposes of executing a project under the Program, and such project meets the minimum military requirements of the North Atlantic Treaty Organization but does not fully meet the requirements of the Department of Defense, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may, notwithstanding any other provision of law, provide conjunctive contributions to the designated Host Nation using any unobligated funds appropriated for military construction, including appropriations available for operation and maintenance when the aggregate cost of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending from appropriations available for operation and maintenance for unspecified minor military construction.

~~(f)~~ (g) AUTHORIZED EXPENDITURES DEFINED.—In this section, the term “authorized expenditures” means project expenses for which the North Atlantic Treaty Organization has agreed to contribute funding.

1 **Subtitle A—Space Force Military Personnel System Without Component**

2 **SEC. 1711. ESTABLISHMENT OF MILITARY PERSONNEL MANAGEMENT**

3 **SYSTEM FOR THE SPACE FORCE.**

4 Title 10, United States Code, is amended by adding at the end the following new subtitle:

5 **“Subtitle F—Alternative Military Personnel Systems**

6 **“PART I—SPACE FORCE**

“Chap.

“2001. Space Force Personnel System	20001
“2003. Status and Participation.	20101
“2005. Officers.	20201
“2007. Enlisted Members.	20301
“2009. Retention and Separation Generally	20401
“2011. Separation of Officers for Substandard Performance of Duty or for Certain Other Reasons	20501
“2013. Retirement... ..	20601

7 **“CHAPTER 2001– SPACE FORCE PERSONNEL SYSTEM**

“Sec.

“20001. Single military personnel management system.	
“20002. Members: duty status.	
“20003. Members: minimum service requirement as applied to Space Force.	

8 **“§20001. Single military personnel management system**

9 “Members of the Space Force shall be managed through a single military personnel
10 management system, without component.”.

11 **SEC. 1712. COMPOSITION OF THE SPACE FORCE WITHOUT COMPONENT.**

12 (a) COMPOSITION OF THE SPACE FORCE.—Section 9081(b) of title 10, United States Code,
13 is amended—

14 (1) by striking paragraph (1);

15 (2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2),

16 respectively; and

1 (3) in paragraph (1), as so redesignated, by striking “, including” and all that
2 follows through “emergency”.

3 (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the
4 date of the certification by the Secretary of the Air Force under section 1745.

5 **SEC. 1713. DEFINITIONS FOR SINGLE PERSONNEL MANAGEMENT SYSTEM FOR**
6 **THE SPACE FORCE.**

7 (a) SPACE FORCE DEFINITIONS.—Section 101 of title 10, United States Code, is
8 amended—

9 (1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h),
10 respectively; and

11 (2) by inserting after subsection (d) the following new subsection (e):

12 “(e) SPACE FORCE.—The following definitions relating to members of the Space Force
13 apply in this title:

14 “(1) The term ‘space force active status’ means the status of a member of the
15 Space Force who is not in a space force inactive status and is not retired.

16 “(2) The term ‘space force inactive status’ means the status of a member of the
17 Space Force who is designated by the Secretary of the Air Force, under regulations
18 prescribed by the Secretary, as being in a space force inactive status.

19 “(3) The term ‘space force retired status’ means the status of a member of the
20 Space Force who—

21 “(A) is receiving retired pay ; or

22 “(B) but for being under the eligibility age applicable under section 12731
23 of this title, would be eligible for retired pay under chapter 1223 of this title.

24 “(4) The term ‘sustained duty’ means full-time duty by a member of the Space
25 Force ordered to such duty by an authority designated by the Secretary of the Air Force—

1 “(A) in the case of an officer—
2 “(i) to fulfill the terms of an active-duty service commitment
3 incurred by the officer under any provision of law; or
4 “(ii) with the consent of the officer; and
5 “(B) in the case of an enlisted member, with the consent of the enlisted
6 member as specified in the terms of the member’s enlistment or reenlistment
7 agreement.”.

8 (b) AMENDMENTS TO EXISTING DUTY STATUS DEFINITIONS.—Subsection (d) of such
9 section is amended—

10 (1) in paragraph (1), by inserting “, including sustained duty in the Space Force”
11 after “United States”; and

12 (2) in paragraph (7), by inserting “, or a member of the Space Force,” after
13 “Reserves” in subparagraphs (A) and (B).

14 **SEC. 1714. BASIC POLICIES RELATING TO SERVICE IN THE SPACE FORCE.**

15 Chapter 2001 of title 10, United States Code, as added by section 1711, is amended by
16 adding at the end the following new sections:

17 **“§20002. Members: duty status**

18 “Under regulations prescribed by the Secretary of the Air Force, each member of the
19 Space Force shall be placed in one of the following duty statuses:

20 “(1) Space force active status.

21 “(2) Space force inactive status.

22 “(3) Space force retired status.

23 **“§20003. Members: minimum service requirement as applied to Space Force**

1 “(a) In applying section 651 of this title to a person who becomes a member of the Space
2 Force, the provisions of the second sentence of subsection (a) and of subsection (b) of that
3 section (relating to service in a reserve component) are inapplicable.

4 “(b) A member of the Space Force who transfers to one of the other armed forces before
5 completing the service required by subsection (a) of section 651 of this title shall upon such
6 transfer be subject to section 651 of this title in the same manner as if such member had initially
7 entered the armed force to which the member transfers.”.

8 **SEC. 1715. STATUS AND PARTICIPATION.**

9 Subtitle F of title 10, United States Code, as added by section 1711, is amended by
10 adding at the end the following new chapter:

11 **“CHAPTER 2003—STATUS AND PARTICIPATION**

“Sec.

“20101. Members in Space Force active status: amount of annual training or active duty service required.

“20102. Individual Ready Guardians: designation; mobilization category.

“20103. Members not on sustained duty: agreement concerning conditions of service.

“20104. Orders to active duty: with consent of member.

“20105. Sustained duty.

“20106. Orders to active duty: without consent of member.

“20107. Transfer to inactive status: initial service obligation not complete.

“20108. Members of Space Force: credit for service for purposes of laws providing pay and benefits for members,
dependents, and survivors.

“20109. Policy for order to active duty based upon determination by Congress.

12 **“§20101. Members in Space Force active status: amount of annual training or active duty**
13 **service required**

14 “Except as specifically provided in regulations prescribed by the Secretary of Defense, a
15 member of the Space Force in a space force active status who is not serving on sustained duty
16 shall be required to—

17 “(1) participate in at least 48 scheduled drills or training periods during each year
18 and serve on active duty for not less than 14 days (exclusive of travel time) during each
19 year; or

20 “(2) serve on active duty for training not more than 30 days during each year.

1 **“§20102. Individual Ready Guardians: designation; mobilization category**

2 “(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the
3 Secretary of the Air Force may designate a member of the Space Force in a space force active
4 status as an Individual Ready Guardian.

5 “(b) MOBILIZATION CATEGORY.—

6 “(1) IN GENERAL.—Among members of the Space Force designated as Individual
7 Ready Guardians, there is a category of members (referred to as a ‘mobilization
8 category’) who, as designated by the Secretary of the Air Force, are subject to being
9 ordered to active duty without their consent in accordance with section 20106(a) of this
10 title.

11 “(2) LIMITATIONS ON PLACEMENT IN MOBILIZATION CATEGORY.—A member
12 designated as an Individual Ready Guardian may not be placed in the mobilization
13 category referred to in paragraph (1) unless—

14 “(A) the member volunteers to be placed in that mobilization category;

15 and

16 “(B) the member is selected by the Secretary of the Air Force, based upon
17 the needs of the Space Force and the grade and military skills of that member.

18 “(3) LIMITATION ON TIME IN MOBILIZATION CATEGORY.—A member of the Space
19 Force in a space force active status may not remain designated an Individual Ready
20 Guardian in such mobilization category after the end of the 24-month period beginning
21 on the date of the separation of the member from active service.

22 “(4) DESIGNATION OF GRADES AND MILITARY SKILLS OR SPECIALTIES.—The
23 Secretary of the Air Force shall designate the grades and military skills or specialties of
24 members to be eligible for placement in such mobilization category.

1 “(5) BENEFITS.—A member in such mobilization category shall be eligible for
2 benefits (other than pay and training) on the same basis as are available to members of
3 the Individual Ready Reserve who are in the special mobilization category under section
4 10144(b) of this title, as determined by the Secretary of Defense.

5 **“§20103. Members not on sustained duty: agreements concerning conditions of service**

6 “(a) AGREEMENTS.—The Secretary of the Air Force may enter into a written agreement
7 with a member of the Space Force not on sustained duty—

8 “(1) requiring the member to serve on active duty for a definite period of time;

9 “(2) specifying the conditions of the member’s service on active duty; and

10 “(3) for a member serving in a space force inactive status, specifying the
11 conditions for the member’s continued service as well as order to active duty with and
12 without the consent of the member.

13 “(b) CONDITIONS OF SERVICE.—An agreement under subsection (a) shall specify the
14 conditions of service. The Secretary of the Air Force shall prescribe regulations establishing—

15 “(1) what conditions of service may be specified in the agreement;

16 “(2) the obligations of the parties; and

17 “(3) the consequences of failure to comply with the terms of the agreement.

18 “(c) AUTHORITY FOR RETENTION ON ACTIVE DUTY DURING WAR OR NATIONAL
19 EMERGENCY.—If the period of service on active duty of a member under an agreement under
20 subsection (a) expires during a war or during a national emergency declared by Congress or the
21 President, the member concerned may be kept on active duty, without the consent of the
22 member, as otherwise prescribed by law.

23 **“§20104. Orders to active duty: with consent of member**

24 “(a) AUTHORITY.—A member of the Space Force who is serving in a space force active
25 status and is not on sustained duty, or who is serving in a space force inactive status, may, with

1 the consent of the member, be ordered to active duty, or retained on active duty, under the
2 following sections of chapter 1209 of this title in the same manner as applies to a member of a
3 reserve component ordered to active duty, or retained on active duty, under that section with the
4 consent of the member:

5 “(1) Section 12301(d), relating to orders to active duty at any time with the
6 consent of the member.

7 “(2) Section 12301(h), relating to orders to active duty in connection with
8 medical or health care matters.

9 “(3) Section 12322, relating to active duty for health care.

10 “(4) Section 12323, relating to active duty pending line of duty determination
11 required for response to sexual assault.

12 “(b) APPLICABLE PROVISIONS OF LAW.—The following sections of chapter 1209 of this
13 title pertaining to a member of a reserve component ordered to active duty with the consent of
14 the member apply to a member of the Space Force who is ordered to active duty under this
15 section in the same manner as to such a reserve component member:

16 “(1) Section 12308, relating to retention after becoming qualified for retired pay.

17 “(2) Section 12309, relating to use of Reserve officers in expansion of armed
18 forces.

19 “(3) Section 12313, relating to release of reserve members from active duty.

20 “(4) Section 12314, relating to kinds of duty.

21 “(5) Section 12315, relating to duty with or without pay.

22 “(6) Section 12316, relating to payment of certain Reserves while on duty.

23 “(7) Section 12318, relating to duties and funding of reserve members on active
24 duty.

25 “(8) Section 12320, relating to grade in which ordered to active duty.

1 “(9) Section 12321, relating to a limitation on number of reserve members
2 assigned to Reserve Officer Training Corps units.

3 **“§20105. Sustained duty**

4 “(a) ENLISTED MEMBERS.—An authority designated by the Secretary of the Air Force
5 may order an enlisted member of the Space Force in a space force active status to sustained duty,
6 or retain an enlisted member on sustained duty, with the consent of that member, as specified in
7 the terms of the member’s enlistment or reenlistment agreement.

8 “(b) OFFICERS.—

9 “(1) An authority designated by the Secretary of the Air Force may order a Space
10 Force officer in a space force active status to sustained duty—

11 “(A) with the consent of the officer; or

12 “(B) to fulfill the terms of an active-duty service commitment incurred by
13 the officer under any provision of law.

14 “(2) An officer ordered to sustained duty under paragraph (1) may not be released
15 from sustained duty without the officer’s consent except as provided in chapter 2009 or
16 2011 of this title.

17 **“§20106. Orders to active duty: without consent of member**

18 “(a) MEMBERS IN A SPACE FORCE ACTIVE STATUS.—

19 “(1) A member of the Space Force in a space force active status who is not on
20 sustained duty, may, without the consent of the member, be ordered to active duty or
21 inactive duty in the same manner as a member of a reserve component ordered to active
22 duty or inactive duty under the provisions of chapter 1209 of this title and any other
23 provision of law authorizing the order to active duty of a member of a reserve component
24 in an active status without the consent of the member.

1 “(2) The provisions of chapter 1209 of this title, or other applicable provisions of
2 law, pertaining to a member of the Ready Reserve when ordered to active duty shall
3 apply to a member of the Space Force who is in a space force active status when ordered
4 to active duty under paragraph (1).

5 “(3) The provisions of section 12304 of this title pertaining to members in the
6 Individual Ready Reserve mobilization category shall apply to a member of the Space
7 Force who is designated an Individual Ready Guardian when ordered to active duty who
8 meets the provisions of section 20102(b) of this title.

9 “(b) MEMBERS IN A SPACE FORCE INACTIVE STATUS.—

10 “(1) A member of the Space Force in a space force inactive status may be ordered
11 to active duty under—

12 “(A) the provisions of chapter 1209 of this title;

13 “(B) any other provision of law authorizing the order to active duty of a
14 member of a reserve component in an inactive status; and

15 “(C) the terms of any agreement entered into by the member under section
16 20103 of this title.

17 “(2) The provisions of chapter 1209 of this title, or other applicable provisions of
18 law, pertaining to the Standby Reserve shall apply to a member of the Space Force who is
19 in a space force inactive service when ordered to active duty.

20 “(c) MEMBERS IN A SPACE FORCE RETIRED STATUS.—

21 “(1) Chapters 39 and 1209 of this title include provisions authorizing the order to
22 active duty of a member of the Space Force in a space force retired status.

23 “(2) The provisions of sections 688, 688a, and 12407 of this title pertaining to a
24 retired member or a member of the Retired Reserve shall apply to a member of the Space
25 Force in a space force retired status when ordered to active duty.

1 “(3) The provisions of section 689 of this title pertaining to a retired member
2 ordered to active duty shall apply to a member of the Space Force in a space force retired
3 status who is ordered to active duty.

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

7 “(1) Section 12305, relating to the authority of the President to suspend certain
8 laws relating to promotion, retirement, and separation.

9 “(2) Section 12308, relating to retention after becoming qualified for retired pay.

10 “(3) Section 12313, relating to release from active duty.

11 “(4) Section 12314, relating to kinds of duty.

12 “(5) Section 12315, relating to duty with or without pay.

13 “(6) Section 12316, relating to payment of certain Reserves while on duty.

14 “(7) Section 12317, relating to theological students; limitations.

15 “(8) Section 12320, relating to grade in which ordered to active duty.

16 **“§20107. Transfer to inactive status: initial service obligation not complete**

17 “(a) GENERAL RULE.—A member of the Space Force who has not completed the required
18 minimum service obligation referred to in section 20003 of this title shall, if terminating space
19 force active status, be transferred to a space force inactive status and, unless otherwise
20 designated an Individual Ready Guardian under section 20102 of this title, shall remain subject
21 to order to active duty without the member’s consent under section 20106 of this title.

22 “(b) EXCEPTION.—Subsection (a) does not apply to a member who is separated from the
23 Space Force by the Secretary of the Air Force under section 20503 of this title.

24 **“§20108. Members of Space Force: credit for service for purposes of laws providing pay
25 and benefits for members, dependents, and survivors**

- “20211. Convening of selection boards.
- “20212. Composition of selection boards.
- “20213. Notice of convening of selection boards.
- “20214. Recommendations for promotion by selection boards.
- “20215. Reports of selection boards.
- “20216. Action on reports of selection boards for promotions to brigadier general or major general.

“SUBCHAPTER III—PROMOTIONS

- “20231. Eligibility for consideration for promotion: time-in-grade and other requirements.
- “20232. Eligibility for consideration for promotion: senior commander nominations.
- “20233. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to brigadier general; exceptions.
- “20234. Opportunities for consideration for promotion.
- “20235. Space Force officer list.
- “20236. Competitive categories.
- “20237. Numbers to be recommended for promotion.
- “20238. Promotions: how made; authorized delay of promotions.

“SUBCHAPTER IV—PERSONS NOT CONSIDERED FOR PROMOTION AND OTHER PROMOTION-RELATED PROVISIONS

- “20251. Special selection boards.
- “20252. Other promotion matters.

“SUBCHAPTER V—APPLICABILITY OF OTHER LAWS

- “20261. Applicability of certain DOPMA officer personnel policy provisions.

1 “SUBCHAPTER I—ORIGINAL APPOINTMENTS

2 **“§20201. Original appointments: how made**

3 “(a) APPOINTMENTS MADE BY SECRETARY OF DEFENSE.—Original appointments of
4 commissioned officers in the Space Force in grades below the grade of brigadier general shall be
5 made by the Secretary of Defense.

6 “(b) APPLICATION OF CONSTRUCTIVE CREDIT.—The grade of a person receiving an
7 appointment under this section who at the time of appointment is credited with service under
8 section 20203 of this title shall be determined under regulations prescribed by the Secretary of
9 the Defense based upon the amount of service credited.

10 **“§20202. Original appointments: qualifications**

11 “(a) IN GENERAL.—An original appointment as a commissioned officer in the Space
12 Force may be given only to a person who—

1 “(1) is a citizen of the United States;

2 “(2) is at least 18 years of age; and

3 “(3) has such other physical, mental, moral, professional, and age qualifications as
4 the Secretary of the Air Force may prescribe by regulation.

5 “(b) EXCEPTION.—A person who is otherwise qualified, but who has a physical condition
6 that the Secretary of the Air Force determines will not interfere with the performance of the
7 duties to which that person may be assigned, may be appointed as an officer in the Space Force.

8 **“20203. Original appointments: service credit**

9 “(a) CREDIT FOR PRIOR SERVICE.—

10 “(1) PRIOR COMMISSIONED SERVICE.—For the purpose of determining the grade
11 and rank within grade of a person receiving an original appointment in a commissioned
12 grade in the Space Force, such person shall be credited at the time of such appointment
13 with any active commissioned service (other than service as a commissioned warrant
14 officer) that the person performed in any uniformed service before such appointment.

15 “(2) PRIOR CIVILIAN SERVICE.—For the purpose of determining the grade and rank
16 within grade of a person receiving an original appointment in a commissioned grade in
17 the Space Force, such person may be credited at the time of such appointment with
18 service as a civilian employee of a Federal agency in an occupation code or career field
19 related to the skills and experience required for officers of the Space Force. The Secretary
20 of the Air Force shall prescribe regulations establishing which civilian employee
21 occupation codes and career fields may be considered as related to the skills and
22 experience required for officers of the Space Force.

23 “(3) LIMITATION ON AMOUNT OF PRIOR COMMISSIONED SERVICE THAT MAY BE
24 CREDITED.—The regulations prescribed by the Secretary of Defense under section 533 of
25 this title shall apply to the Space Force to authorize the Secretary of the Air Force to limit

1 the amount of prior active commissioned service with which a person receiving an
2 original appointment may be credited under paragraph (1).

3 “(b) CREDIT FOR EDUCATION, TRAINING, AND EXPERIENCE.—

4 “(1) Under regulations prescribed by the Secretary of the Air Force, the Secretary
5 shall credit a person who is receiving an original appointment in a commissioned grade in
6 the Space Force and who has advanced education, training, or special experience with
7 constructive service for such education, training, or experience in a particular officer
8 career field as designated by the Secretary of the Air Force, if such education, training, or
9 experience is directly related to the operational needs of the Space Force.

10 “(2) The Secretary may credit a person with constructive credit under this
11 subsection for each instance of relevant advanced education or training or special
12 experience regardless of whether two or more such instances are concurrent.

13 “(3) The amount of constructive service credited an officer under this subsection
14 may not exceed the amount required in order for the officer to be eligible for an original
15 appointment in the grade of colonel.

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

19 “(c) AUTHORIZED USE OF CONSTRUCTIVE CREDIT.—Constructive service credited an
20 officer under subsection (b) shall be used only for determining the officer's—

21 “(1) initial grade;

22 “(2) rank in grade; and

23 “(3) service in grade for promotion eligibility.

24 “(d) EXCLUSION FOR GRADUATES OF THE SERVICE ACADEMIES.—A graduate of the
25 United States Military Academy, the United States Naval Academy, or the United States Air

1 Force Academy is not entitled to service credit under this section for service performed, or
2 education, training, or experience obtained, before graduation from such Academy.”.

3 (b) CONFORMING AMENDMENTS RELATING TO ORIGINAL APPOINTMENTS.—

4 (1) DEFINITIONS.—Section 101 of title 10, United States Code, is amended in
5 subsection (b)(10) by inserting before the period at the end the following: “and, with
6 respect to the appointment of a member of the armed forces in the Space Force, refers to
7 that member’s most recent appointment in the Space Force that is neither a promotion nor
8 a demotion”.

9 (2) ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS.—Section 531 of such
10 title is amended—

11 (A) in subsection (a)—

12 (i) in paragraphs (1) and (2)—

13 (I) by inserting “and” after “Regular Marine Corps”; and

14 (II) by striking “, and in the equivalent grades in the

15 Regular Space Force”; and

16 (ii) by inserting after paragraph (2) the following new paragraph:

17 “(3) Original appointments in the grades of second lieutenant through colonel in the
18 Space Force are provided for under section 20301 of this title.”; and

19 (B) in subsection (c), by striking “Regular Marine Corps, or Regular

20 Space Force” and inserting “or Regular Marine Corps”.

21 (3) QUALIFICATIONS FOR ORIGINAL APPOINTMENT AS A COMMISSIONED OFFICER.—

22 Section 532(a) of such title is amended by striking “Regular Marine Corps, or Regular
23 Space Force” and inserting “or Regular Marine Corps”.

24 (4) SERVICE CREDIT UPON ORIGINAL APPOINTMENT AS A COMMISSIONED

25 OFFICER.—Section 533 of such title is amended—

1 (A) in subsection (a)(2), by striking “Marine Corps, and Space Force” and
2 inserting “and Marine Corps”; and

3 (B) in subsections (a)(1), (b)(1), and (f), by striking “Regular Marine
4 Corps, or Regular Space Force” and inserting “or Regular Marine Corps”.

5 (c) SELECTION BOARDS AND PROMOTIONS.—Chapter 205 of title 10, United States Code,
6 as added by subsection (a), is amended by adding at the end the following new subchapters:

“SUBCHAPTER II—SELECTION BOARDS

7 “§20211. Convening of selection boards

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

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

17 “(c) SECTION 20405 SELECTION BOARDS.—The Secretary of the Air Force may convene
18 selection boards to recommend officers for early retirement under section 20405(a) of this title or
19 for discharge under section 20405(b) of this title.

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

22 “§20212. Composition of selection boards.—

23 “(a) APPOINTMENT AND COMPOSITION OF BOARDS.—

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

13 “(2) REPRESENTATION FROM COMPETITIVE CATEGORIES.—

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

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

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

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

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

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

16 “(b) LIMITATION ON MEMBERSHIP ON CONSECUTIVE BOARDS.—

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

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

23 “(c) JOINT QUALIFIED OFFICERS.—

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

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

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

6 “(B) is a joint qualified officer.

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

9 **“§20213. Notice of convening of selection boards**

10 “(a) At least 30 days before a selection board is convened under section 20211 of this title
11 to recommend officers in a grade for promotion to the next higher grade, the Secretary of the Air
12 Force shall provide to the officers who are eligible for consideration by the board and have not
13 been excluded from consideration under section 20231(d) of this title notification in writing of
14 the date on which the board is to convene. In the notification, the Secretary shall inform an
15 eligible officer of how many times, if any, the officer has previously been considered by a
16 selection board convened under section 20211 for promotion to the grade to which the board
17 described in the notification will recommend officers for promotion.

18 “(b) An officer eligible for consideration by a selection board convened under section
19 20211 of this title (other than an officer who has been excluded under 20231(d) of this title from
20 consideration by the board) may send a written communication to the board, to arrive not later
21 than 10 calendar days before the date on which the board convenes, calling attention to any
22 matter concerning the officer that the officer considers important to the officer’s case. The
23 selection board shall give consideration to any timely communication under this subsection.

24 “(c) An officer on the space force officer list in the grade of colonel or brigadier general
25 who receives a notice under subsection (a) shall inform the Secretary of the officer’s preference

1 to serve either on or off active duty if promoted to the grade of brigadier general or major
2 general, respectively.

3 **“§20214. Recommendations for promotion by selection boards**

4 “(a) BOARD TO RECOMMEND OFFICERS BEST QUALIFIED FOR PROMOTION.—A selection
5 board convened under section 20211 of this title shall recommend for promotion to the next
6 higher grade those officers considered by the board whom the board, giving due consideration to
7 the needs of the Space Force for officers with particular skills (as noted in the guidelines or
8 information furnished the board under section 615(b) of this title), considers best qualified for
9 promotion within each competitive category considered by the board.

10 “(b) NUMBER TO BE RECOMMENDED.—The Secretary of the Air Force shall establish the
11 number of officers such a selection board may recommend for promotion from among officers
12 being considered.

13 “(c) BOARD PROCEDURES FOR RECOMMENDATIONS; LIMITATIONS.—A selection board
14 convened under section 20211 of this title may not recommend an officer for promotion unless—

15 “(1) the officer receives the recommendation of a majority of the members of the
16 board;

17 “(2) a majority of the members of the board finds that the officer is fully qualified
18 for promotion; and

19 “(3) a majority of the members of the board, after consideration by all members of
20 the board of any adverse information about the officer that is provided to the board
21 under section 615 of this title, finds that the officer is among the officers best qualified
22 for promotion to meet the needs of the Space Force consistent with the requirement of
23 exemplary conduct set forth in section 9233 of this title.

24 “(d) LIMITATION ON PROMOTIONS UNDER OTHER AUTHORITY.—Except as otherwise
25 provided by law, a Space Force officer may not be promoted to a higher grade under this chapter

1 unless the officer is considered and recommended for promotion to that grade by a selection
2 board convened under this chapter or, in the case of an officer transferring into the Space Force
3 from another armed force, chapter 36 or chapter 1403 of this title.

4 “(e) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a selection
5 board may be disclosed only in accordance with regulations prescribed by the Secretary of
6 Defense. Those recommendations may not be disclosed to a person not a member of the board
7 (or a member of the administrative staff designated by the Secretary of the Air Force to assist the
8 board) until the written report of the recommendations of the board, required by section 617 of
9 this title, is signed by each member of the board.

10 “(f) PROHIBITION ON ATTEMPTING TO INFLUENCE MEMBERS OF A BOARD.—The Secretary
11 of the Air Force, and an officer or other official exercising authority over any member of a
12 selection board, may not—

13 “(1) censure, reprimand, or admonish the selection board or any member of the
14 board with respect to the recommendations of the board or the exercise of any lawful
15 function within the authorized discretion of the board; or

16 “(2) attempt to coerce or, by any unauthorized means, influence any action of a
17 selection board or any member of a selection board in the formulation of the board's
18 recommendations.

19 “(g) HIGHER PLACEMENT ON PROMOTION LIST OF OFFICER OF PARTICULAR MERIT.—

20 “(1) In selecting the officers to be recommended for promotion, a selection board
21 shall, when authorized by the Secretary of the Air Force, recommend officers of
22 particular merit, pursuant to guidelines and procedures prescribed by the Secretary, from
23 among those officers selected for promotion, to be placed higher on the promotion list
24 established by the Secretary under section 624(a)(1) of this title.

1 “(2) An officer may be recommended to be placed higher on a promotion list
2 under paragraph (1) only if the officer receives the recommendation of at least a majority
3 of the members of the board, unless the Secretary of the Air Force establishes an
4 alternative requirement. Any such alternative requirement shall be furnished to the board
5 as part of the guidelines furnished to the board under section 615 of this title.

6 “(3) For the officers recommended to be placed higher on a promotion list under
7 paragraph (1), the board shall recommend, pursuant to guidelines and procedures
8 prescribed by the Secretary, the order in which those officers should be placed on the list.

9 **“§20215. Reports of selection boards**

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

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

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

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

1 “(c) OFFICERS RECOMMENDED TO BE PLACED HIGHER ON THE PROMOTION LIST.—A
2 selection board convened under section 20211 of this title shall, when authorized under section
3 20214(g) of this title, include in its report the names of those officers recommended by the board
4 to be placed higher on the promotion list and the order in which the board recommends that those
5 officers should be placed on the list.

6 **“20216. Action on reports of selection boards for promotion to brigadier general or major
7 general**

8 “After reviewing a report received under section 20215 of this title recommending
9 officers on the space force officer list for promotion to the grade of brigadier general or major
10 general, but before submitting the report to the Secretary of Defense, the Secretary of the Air
11 Force may, under regulations prescribed by the Secretary of the Air Force, adjust the placement
12 of officers on the promotion list recommended in the report in order to further Space Force
13 mission accomplishment.

14 **“SUBCHAPTER III—PROMOTIONS**

15 **“§20231. Eligibility for consideration for promotion: time-in-grade and other requirements**

16 **“(a) TIME-IN-GRADE REQUIREMENTS.—**

17 “(1) An officer who is in a space force active status on the space force officer list
18 and holds a permanent appointment in the grade of second lieutenant or first lieutenant
19 may not be promoted to the next higher permanent grade until the officer has completed
20 the following period of service in the grade in which the officer holds a permanent
21 appointment:

22 “(A) Eighteen months, in the case of an officer holding a permanent
23 appointment in the grade of second lieutenant.

24 “(B) Two years, in the case of an officer holding a permanent appointment
25 in the grade of first lieutenant.

1 “(2) Except as authorized by section 20233 of this title, an officer who is in a
2 space force active status on the space force officer list and holds a permanent
3 appointment in a grade above first lieutenant may not be considered for selection for
4 promotion to the next higher permanent grade until the officer has completed the
5 following period of service in the grade in which the officer holds a permanent
6 appointment:

7 “(A) Three years, in the case of an officer holding a permanent
8 appointment in the grade of captain, major, or lieutenant colonel.

9 “(B) One year, in the case of an officer holding a permanent appointment
10 in the grade of colonel or brigadier general.

11 “(3) When the needs of the service require, the Secretary of the Air Force may
12 prescribe a longer period of service in grade for eligibility for promotion, in the case of
13 officers to whom paragraph (1) applies, or for eligibility for consideration for promotion,
14 in the case of officers to whom paragraph (2) applies.

15 “(4) In computing service in grade for purposes of this section, service in a grade
16 held as a result of assignment to a position is counted as service in the grade in which the
17 officer would have served except for such assignment or appointment.

18 “(b) AUTHORITY TO PRECLUDE FROM CONSIDERATION CERTAIN OFFICERS BASED ON
19 TIME OF ENTRY ON OR DEPARTURE FROM SUSTAINED DUTY.—The Secretary of the Air Force—

20 “(1) may, by regulation, prescribe a period of time, not to exceed one year, from
21 the time an officer on the space force officer list transfers on or off of sustained duty
22 during which the officer shall be ineligible for consideration for promotion; and

23 “(2) may, by regulation, preclude from consideration by a selection board by
24 which the officer would otherwise be eligible to be considered, an officer who has an

1 established separation date that is within 90 days after the date on which the board is to
2 be convened.

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

6 “(1) An officer whose name is on a promotion list for that grade as a result of the
7 officer’s selection for promotion to that grade by an earlier selection board convened
8 under that section.

9 “(2) An officer who is recommended for promotion to that grade in the report of
10 an earlier selection board convened under that section, in the case of such a report that
11 has not yet been approved by the President.

12 “(3) An officer in the grade of first lieutenant who is on an approved all-fully-
13 qualified-officers list under section 20238 of this title.

14 “(4) An officer excluded under subsection (d).

15 “(d) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD
16 CONSIDERATION.—

17 “(1) The Secretary of the Air Force may provide that an officer on the space force
18 officer list may, upon the officer’s request and with the approval of the Secretary, be
19 excluded from consideration by a selection board convened under section 20211 of this
20 title to consider officers for promotion to the next higher grade.

21 “(2) The Secretary of the Air Force may only approve a request under paragraph
22 (1) if the Secretary determines the exclusion from consideration is in the best interest of
23 the Space Force.

24 **“§20232. Eligibility for consideration for promotion: senior commander nominations**

1 “(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Air Force and
2 subject to subsection (b), a board convened under section 20211 of this title may consider for
3 promotion to the next higher grade an officer in a space force active status on the space force
4 officer list in the grade of captain, major, or lieutenant colonel who—

5 “(1) does not meet the requirements of section 20412 of this title with respect to
6 time-in-grade; or

7 “(2) has already been considered for promotion by a selection board convened
8 under section 20211 of this title the maximum number of times as determined by the
9 Secretary under section 20415 of this title and has failed of selection for promotion each
10 time.

11 “(b) NOMINATION REQUIRED.—The regulations prescribed under subsection (a) shall
12 require that, in order for an officer described in that subsection to be considered for promotion by
13 a board convened under section 20211 of this title, the officer must be nominated by the
14 commanding general of the Space Force Field Command to which the officer is assigned or, in
15 the case of an officer on the space force officer list not assigned to a unit subordinate to a Space
16 Force Field Command, the first lieutenant general, or civilian equivalent, in the officer’s chain of
17 command or supervision. For an officer on the space force officer list assigned to a joint
18 position, or a position within a Federal department or agency outside of the Department of the
19 Air Force, the nomination may be made by a lieutenant general in the Army, Air Force, or
20 Marine Corps or a vice admiral in the Navy, or the civilian equivalent.

21 “(c) NOMINATION.—

22 “(1) The regulations prescribed under subsection (a) shall establish clear,
23 competency-based criteria for use by the nominating officer or official in determining
24 whether an officer described in subsection (a) should be nominated for consideration for
25 promotion.

1 “(2) An officer on the space force officer list may only be nominated under this
2 section if (A) the officer is not eligible for consideration for promotion by a selection
3 board convened under section 20211 of this title, and (B) the officer has not twice
4 previously been promoted to a higher grade on the space force officer list under this
5 section.

6 “(3) A nomination under this section shall be submitted to the Chief Human
7 Capital Officer of the Space Force and shall provide sufficient information and
8 justification for the opinion of the nominating officer that the nominated officer meets the
9 requisite competency-based requirements for service in a higher grade and is
10 exceptionally well qualified for promotion despite not meeting the eligibility
11 requirements for consideration for promotion under section 20412 of this title.

12 **“§20233. Eligibility for consideration for promotion: designation as joint qualified officer**
13 **required before promotion to brigadier general; exceptions**

14 “(a) GENERAL RULE.—An officer on the space force officer list may not be appointed to
15 the grade of brigadier general unless the officer has been designated as a joint qualified officer in
16 accordance with section 661 of this title.

17 “(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive
18 subsection (a) in the following circumstances:

19 “(1) When necessary for the good of the service.

20 “(2) In the case of an officer whose proposed selection for promotion is based
21 primarily upon scientific and technical qualifications for which joint requirements do not
22 exist.

23 “(3) In the case of an officer selected by a promotion board for appointment to the
24 grade of brigadier general while serving in a joint duty assignment if—

1 “(A) the officer's total consecutive service in joint duty assignments is not
2 less than two years; and

3 “(B) the officer has successfully completed a program of education
4 described in subsections (b) and (c) of section 2155 of this title.

5 “(4) In the case of an officer who—

6 “(A) is selected by a promotion board for appointment to the grade of
7 brigadier general;

8 “(B) is not exempted under subsection (g); and

9 “(C) has successfully completed the education requirements prescribed in
10 subparagraph (A) of section 661(c)(1) of this title but has not been afforded the
11 opportunity to complete the experience requirements described in subparagraph
12 (B) of that section.

13 “(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on
14 a case-by-case basis in the case of an individual officer.

15 “(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under
16 subsection (b)(1), the Secretary shall provide that the first duty assignment as a general or flag
17 officer of the officer for whom the waiver is granted shall be in a joint duty assignment.

18 “(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the
19 Secretary of Defense to grant a waiver under subsection (b)(4) may be delegated to the Secretary
20 of the Air Force and may not be further delegated.

21 “(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out
22 this section. The regulations shall specifically identify for purposes of subsection (b)(2) those
23 categories of officers for which selection for promotion to brigadier general is based primarily
24 upon scientific and technical qualifications for which joint requirements do not exist.

1 “(g) EXEMPTION.—Subsection (a) shall not apply to an officer who transfers to the Space
2 Force from a reserve component before the first day of the sixth fiscal year beginning after the
3 date of the enactment of this section, and who, as of the date of the transfer, is serving in the
4 grade of major, lieutenant colonel, or colonel or, in the case of the Navy or Coast Guard,
5 lieutenant commander, commander, or captain.

6 **“§20234. Opportunities for consideration for promotion**

7 “(a) SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR
8 PROMOTION.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air
9 Force shall specify the number of opportunities for consideration for promotion to be afforded to
10 Space Force officers for promotion to each grade above the grade of captain.

11 “(b) LIMITATION ON NUMBER OF OPPORTUNITIES THAT MAY BE SPECIFIED.—The
12 number of opportunities for consideration for promotion to be afforded officers of the Space
13 Force for promotion to a particular grade may not be fewer than two and may not exceed five.

14 “(c) LIMITED AUTHORITY OF SECRETARY OF THE AIR FORCE TO MODIFY NUMBER OF
15 OPPORTUNITIES.—The Secretary of the Air Force may change the number of opportunities for
16 consideration for promotion to a particular grade not more frequently than once every five years.

17 “(d) AUTHORITY OF SECRETARY OF DEFENSE TO MODIFY NUMBER OF OPPORTUNITIES.—
18 The Secretary of Defense may modify the number of opportunities for consideration for
19 promotion to be afforded officers of the Space Force for promotion to a particular grade.

20 **“§20235. Space force officer list**

21 “(a) SINGLE LIST.—The Secretary of the Air Force shall maintain a single list of all Space
22 Force officers serving in a space force active status. The list shall be known as the space force
23 officer list.

1 “(b) ORDER OF OFFICERS ON LIST.—Officers shall be carried on the space force officer
2 list in the order of seniority of the grade in which they are serving. Officers serving in the same
3 grade shall be carried in the order of their rank in that grade.

4 “(c) EFFECT OF SERVICE IN A TEMPORARY APPOINTMENT.—An officer whose position on
5 the space force officer list results from service under a temporary appointment or in a grade held
6 by reason of assignment to a position has, when that appointment or assignment ends, the grade
7 and position on the space force officer list that the officer would have held if the officer had not
8 received that appointment or assignment.

9 **“§20236. Competitive categories**

10 “(a) REQUIREMENT TO ESTABLISH COMPETITIVE CATEGORIES FOR PROMOTION.—Under
11 regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall establish
12 at least one competitive category for promotion for officers on the space force officer list. Each
13 officer whose name appears on the space force officer list shall be carried in a competitive
14 category of officers. Officers in the same competitive category shall compete among themselves
15 for promotion.

16 “(b) SINGLE COMPETITIVE CATEGORY FOR PROMOTION TO GENERAL OFFICER GRADES.—
17 The Secretary of the Air Force shall establish a single competitive category for all officers on the
18 space force officer list who will be considered by a selection board convened under section
19 20211 of this title for promotion to the grade of brigadier general or major general.

20 **“§20237. Numbers to be recommended for promotion**

21 “(a) PROMOTION TO GRADES BELOW BRIGADIER GENERAL.—

22 “(1) Before convening a selection board under section 20211 of this title to
23 consider officers for recommendation for promotion to a grade below brigadier general
24 and in any competitive category, the Secretary of the Air Force shall determine—

1 “(A) the number of positions needed to accomplish mission objectives
2 which require officers of that competitive category in the grade to which the
3 board will recommend officers for promotion;

4 “(B) the estimated number of officers needed to fill vacancies in those
5 positions during the period in which it is anticipated that officers selected for
6 promotion will be promoted; and

7 “(C) the number of officers in a space force active status authorized by the
8 Secretary of the Air Force to serve both on sustained duty and not on sustained
9 duty in the grade and competitive category under consideration.

10 “(2) Based on the determinations under paragraph (1), the Secretary of the Air
11 Force shall determine the maximum number of officers in that competitive category
12 which the selection board may recommend for promotion.

13 “(b) PROMOTION TO BRIGADIER GENERAL AND MAJOR GENERAL.—

14 “(1) Before convening a selection board under section 20211 of this title to
15 consider officers for recommendation for promotion to the grade of brigadier general or
16 major general, the Secretary of the Air Force shall determine—

17 “(A) the number of positions needed to accomplish mission objectives
18 which require officers serving in a space force active status on sustained duty, and
19 in a space force active status not on sustained duty, in the grade to which the
20 board will recommend officers for promotion; and

21 “(B) the estimated number of officers on sustained duty and not on
22 sustained duty needed to fill vacancies in those positions over the 24-month
23 period beginning on the date on which the selection board convenes.

24 “(2) Based on the determinations under paragraph (1), the Secretary of the Air
25 Force shall determine the maximum number of officers serving in a space force active

1 status on sustained duty, and the maximum number of officers serving in a space force
2 active status not on sustained duty, which the selection board may recommend for
3 promotion.

4 **“§20238. Promotions: how made; authorized delay of promotions**

5 “(a) PROCEDURE FOR PROMOTION OF OFFICERS ON AN APPROVED PROMOTION LIST.—

6 “(1) PLACEMENT OF NAMES ON PROMOTION LIST.—When the report of a selection
7 board convened under section 20211 of this title is approved by the President, the
8 Secretary of the Air Force shall place the names of all officers approved for promotion
9 within a competitive category on a single list for that competitive category, to be known
10 as a promotion list, in the order of the seniority of such officers on the list or based on
11 particular merit, as determined by the promotion board, or as modified by the Secretary
12 of the Air Force under section 20216 of this title. A promotion list is considered to be
13 established under this section as of the date of the approval of the report of the selection
14 board under the preceding sentence.

15 “(2) ORDER AND TIMING OF PROMOTIONS.—Except as provided in subsection (d),
16 officers on a promotion list for a competitive category shall be promoted to the next
17 higher grade when additional officers in that grade and competitive category are needed.
18 Promotions shall be made in the order in which the names of officers appear on the
19 promotion list and after officers previously selected for promotion in that competitive
20 category have been promoted. Officers to be promoted to the grade of first lieutenant
21 shall be promoted in accordance with regulations prescribed by the Secretary of the Air
22 Force.

23 “(3) LIMITATION ON PROMOTIONS TO GENERAL OFFICER GRADES TO COMPLY WITH
24 STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, the
25 promotion of an officer on the space force officer list to the grade of brigadier general or

1 major general shall be delayed if that promotion would cause any strength limitation of
2 section 526 of this title to be exceeded. The delay shall expire when the Secretary of the
3 Air Force determines that the delay is no longer required to ensure compliance with the
4 strength limitation.

5 “(4) PROMOTION OF FIRST LIEUTENANTS ON AN ALL-FULLY-QUALIFIED OFFICERS
6 LIST.—

7 (A) Except as provided in subsection (d), officers on the space force
8 officer list in the grade of first lieutenant who are on an approved all-fully-
9 qualified-officers list shall be promoted to the grade of captain in accordance with
10 regulations prescribed by the Secretary of the Air Force.

11 “(B) An all-fully-qualified-officers list shall be considered to be approved
12 for purposes of subparagraph (A) when the list is approved by the President.
13 When so approved, such a list shall be treated in the same manner as a promotion
14 list under this chapter.

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

19 “(D) For purposes of this paragraph, an all-fully-qualified-officers list is a
20 list of all officers on the space force officers list in a grade who the Secretary of
21 the Air Force determines—

22 “(i) are fully qualified for promotion to the next higher grade; and

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

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

6 “(b) DATE OF RANK.—The date of rank of an officer appointed to a higher grade under
7 this section is determined under section 741(d) of this title.

8 “(c) APPOINTMENT AUTHORITY.—Appointments under this section shall be made by the
9 President, by and with the advice and consent of the Senate, except that appointments under this
10 section in the grade of first lieutenant or captain shall be made by the President alone.

11 “(d) AUTHORITY TO DELAY APPOINTMENTS FOR SPECIFIED REASONS.—The provisions of
12 subsection (d) of section 624 of this title shall apply to the appointment of an officer under this
13 section in the same manner as they apply to an appointment of an officer under that section, and
14 any reference in that subsection to an active-duty list shall be treated for purposes of applicability
15 to an officer of the Space Force as referring to the space force officer list.

16 “SUBCHAPTER IV—PERSONS NOT CONSIDERED FOR PROMOTION AND
17 OTHER PROMOTION-RELATED PROVISIONS

18 “§20251. Special selection boards

19 “(a) PERSONS NOT CONSIDERED BY PROMOTION BOARD DUE TO ADMINISTRATIVE
20 ERROR.—

21 “(1) If the Secretary of the Air Force determines that because of administrative
22 error a person who should have been considered for selection for promotion by a
23 selection board convened under section 20211 of this title was not so considered, the

1 Secretary shall convene a special selection board under this subsection to determine
2 whether that person should be recommended for promotion.

3 “(2) A special selection board convened under paragraph (1) shall consider the
4 record of the person whose name was referred to it for consideration as that record would
5 have appeared to the board that should have considered the person. That record shall be
6 compared with a sampling of the records of those officers of the same competitive
7 category who were recommended for promotion, and those officers who were not
8 recommended for promotion, by the board that should have considered the person.

9 “(3) If a special selection board convened under paragraph (1) does not
10 recommend for promotion a person whose name was referred to it for consideration for
11 selection for appointment to a grade other than a general officer grade, the person shall be
12 considered to have failed of selection for promotion.

13 “(b) PERSONS CONSIDERED BY PROMOTION BOARD IN UNFAIR MANNER.—

14 “(1) If the Secretary of the Air Force determines, in the case of a person who was
15 considered for selection for promotion by a board convened under section 20211 of this
16 title but was not selected, that there was material unfairness with respect to that person,
17 the Secretary may convene a special selection board under this subsection to determine
18 whether that person should be recommended for promotion. In order to determine that
19 there was material unfairness, the Secretary must determine that—

20 “(A) the action of the selection board that considered the person was
21 contrary to law in a matter material to the decision of the board or involved
22 material error of fact or material administrative error; or

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

1 “(2) A special selection board convened under paragraph (1) shall consider the
2 record of the person whose name was referred to it for consideration as that record, if
3 corrected, would have appeared to the board that considered the person. That record shall
4 be compared with the records of a sampling of those officers of the same competitive
5 category who were recommended for promotion, and those officers who were not
6 recommended for promotion, by the board that considered the person.

7 “(3) If a special selection board convened under paragraph (1) does not
8 recommend for promotion a person whose name was referred to it for consideration, the
9 person incurs no additional failure of selection for promotion.

10 “(c) REPORTS OF BOARDS.—

11 (1) Each special selection board convened under this section shall submit to the
12 Secretary of the Air Force a written report, signed by each member of the board,
13 containing the name of each person it recommends for promotion and certifying that the
14 board has carefully considered the record of each person whose name was referred to it.

15 “(2) The provisions of sections 20215 and 20216 of this title apply to the report
16 and proceedings of a special selection board convened under this section in the same
17 manner as they apply to the report and proceedings of a selection board convened
18 under section 20211 of this title.

19 “(d) APPOINTMENT OF PERSONS SELECTED BY BOARDS.—

20 “(1) If the report of a special selection board convened under this section, as
21 approved by the President, recommends for promotion to the next higher grade a person
22 whose name was referred to it for consideration, that person shall, as soon as practicable,
23 be appointed to that grade in accordance with subsections (b), (c), and (d) of section
24 20238 of this title.

1 “(2) A person who is appointed to the next higher grade as the result of the
2 recommendation of a special selection board convened under this section shall, upon that
3 appointment, have the same date of rank, the same effective date for the pay and
4 allowances of that grade, and the same position on the space force officer list as the
5 person would have had if the person had been recommended for promotion to that grade
6 by the board which should have considered, or which did consider, the person.

7 “(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a
8 special selection board under this section dies before the completion of proceedings under this
9 section with respect to that person, this section shall be applied to that person posthumously.

10 “(f) CONVENING OF BOARDS.—A board convened under this section—

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

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

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

15 “(g) JUDICIAL REVIEW.—The provisions of subsection (g) of section 628 of this title
16 (relating to judicial review) apply to the following actions with respect of any person in the same
17 manner as those provisions apply to corresponding actions under such section 628 with respect to
18 an officer or former officer of the Air Force:

19 “(1) A determination by the Secretary of the Air Force under subsection (a)(1) or
20 (b)(1) not to convene a special selection board.

21 “(2) The action of a special selection board convened under this section.

22 “(3) An action of the Secretary of the Air Force on the report of such a board.

23 “(h) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States
24 may, with respect to a claim based to any extent on the failure of a person to be selected for
25 promotion by a promotion board—

1 “(1) consider the claim unless the person has first been referred by the Secretary
2 of the Air Force to a special selection board convened under this section and acted upon
3 by that board and the report of the board has been approved by the President; or

4 “(2) except as provided in subsection (g), grant any relief on the claim unless the
5 person has been selected for promotion by a special selection board convened under this
6 section to consider the person for recommendation for promotion and the report of the
7 board has been approved by the President.

8 “(i) EXISTING JURISDICTION.—Nothing in this section limits—

9 “(1) the jurisdiction of any court of the United States under any provision of law
10 to determine the validity of any law, regulation, or policy relating to selection boards; or

11 “(2) the authority of the Secretary of the Air Force to correct a military record
12 under section 1552 of this title.

13 “(j) REGULATIONS.—

14 “(1) IN GENERAL.—The Secretary of the Air Force shall prescribe regulations to
15 carry out this section.

16 “(2) EXCLUSION.—Regulations under this subsection may not apply to subsection
17 (g) of section 628 of this title (as incorporated by subsection (g) of this section), other
18 than to paragraph (3)(C) of that subsection.

19 “(3) PRESCRIBING OF CIRCUMSTANCES FOR CONSIDERATION BY A BOARD UNDER
20 THIS SECTION.—The Secretary may prescribe in the regulations under this subsection the
21 circumstances under which consideration by a special selection board may be provided
22 for under this section, including the following:

23 “(A) The circumstances under which consideration of a person's case by a
24 special selection board is contingent upon application by or for that person.

1 “(B) Any time limits applicable to the filing of an application for such
2 consideration.

3 “(4) REGULATIONS SUBJECT TO SECRETARY OF DEFENSE APPROVAL.—Regulations
4 prescribed by the Secretary of the Air Force under this subsection may not take effect
5 until approved by the Secretary of Defense.

6 **“§20252. Other promotion matters**

7 “(a) SPECIAL SELECTION BOARD MATTERS. – The reference in section 628(a)(1) of this
8 title to a person above the promotion zone does not apply in the promotion of officers on the
9 space force officer list.

10 “(b) With respect to the promotion of officers on the space force officer list, the
11 provisions of part II of subtitle A that refer to the effect of twice failing of selection for
12 promotion do not apply.

13 **“SUBCHAPTER V—APPLICABILITY OF OTHER LAWS**

14 **“§20261. Applicability of certain DOPMA officer personnel policy provisions**

15 “Except as otherwise modified or provided for in this chapter, the following provisions of
16 chapter 36 of this title (relating to promotion, separation, and involuntary retirement of officers
17 on the active-duty list) shall apply to Space Force officers and officer promotions:

18 “(1) Subchapter I (relating to selection boards).

19 “(2) Subchapter II (relating to promotions).

20 “(3) Subchapter III (relating to failure of selection for promotion and retirement
21 for years of service), other than sections 627, 631, and 632.

22 “(4) Subchapter IV (relating to continuation on active duty and selective early
23 retirement), other than sections 637, 637a, and 638.

24 “(5) Subchapter V (additional provisions relating to promotion, separation, and
25 retirement).

1 “(6) Subchapter VI (relating to alternative promotion authority for officers in
2 designated competitive categories).”.

3 (d) TEMPORARY (“BREVET”) PROMOTIONS FOR OFFICERS WITH CRITICAL SKILLS.—

4 Section 605 of title 10, United States Code, is amended as follows:

5 (1) COVERAGE OF SPACE FORCE OFFICERS.—Subsections (a), (b)(2)(A), (f)(1), and
6 (f)(2) are amended by striking “or Marine Corps,” each place it appears and inserting
7 “Marine Corps, or Space Force,”.

8 (2) DISAGGREGATION OF AIR FORCE MAXIMUM NUMBERS.—Subsection (g) is
9 amended—

10 (A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5),
11 respectively; and

12 (B) by striking paragraph (2) and inserting the following new paragraphs
13 (2) and (3):

14 “(2) In the case of the Air Force—

15 “(A) as captain 95;

16 “(B) as major, 305;

17 “(C) as lieutenant colonel, 165; and

18 “(D) as colonel, 75.

19 “(3) In the case of the Space Force—

20 “(A) as captain, 5;

21 “(B) as major, 20;

22 “(C) as lieutenant colonel, 10; and

23 “(D) as colonel, 5.”.

24 **SEC. 1717. ENLISTED MEMBERS.**

1 (a) IN GENERAL.—Subtitle F of title 10, United States Code, as amended by section 1716,
2 is further amended by adding at the end the following new chapter:

3 **“CHAPTER 2007—ENLISTED MEMBERS**

“Sec.

“20301. Original enlistments: qualifications; grade.

“20302. Enlisted members: term of enlistment.

“20303. Reference to chapter 31.

4 **“§20301. Original enlistments: qualifications; grade**

5 “(a) ORIGINAL ENLISTMENTS.—

6 “(1) AUTHORITY TO ACCEPT.—The Secretary of the Air Force may accept original
7 enlistments in the Space Force of qualified, effective, and able-bodied persons.

8 “(2) AGE.—A person accepted for original enlistment shall be not less than
9 seventeen years of age. However, no person under eighteen years of age may be
10 originally enlisted without the written consent of the person’s parent or guardian, if the
11 person has a parent or guardian entitled to the person’s custody and control.

12 “(b) GRADE.—A person is enlisted in the Space Force in the grade prescribed by the
13 Secretary of the Air Force.

14 **“§20302. Enlisted members: term of enlistment**

15 “(a) TERM OF ORIGINAL ENLISTMENTS.—The Secretary of the Air Force may accept
16 original enlistments of persons for the duration of their minority or for a period of at least two
17 but not more than eight years in the Space Force.

18 “(b) TERM OF REENLISTMENTS.—The Secretary of the Air Force may accept a
19 reenlistment in the Space Force for a period determined in accordance with paragraphs (2), (3),
20 and (4) of section 505(d) of this title.

21 **“§20303. Reference to chapter 31**

22 “For other provisions of this title applicable to enlistments in the Space Force, see chapter
23 31 of this title.”.

1 (b) AMENDMENTS TO TITLE 10 CHAPTER RELATING TO ENLISTMENTS.—Chapter 31 of
2 such title is amended as follows:

3 (1) RECRUITING CAMPAIGNS.—Section 503(a) is amended by inserting “and the
4 Space Force” after “Regular Coast Guard”.

5 (2) QUALIFICATIONS, TERM, GRADE.—Section 505 is amended—

6 (A) by striking “Regular Space Force,” each place it appears; and

7 (B) by adding at the end the following new subsection:

8 “(e) ENLISTMENTS IN THE SPACE FORCE.—For enlistments in the Space Force, see
9 sections 20301 and 20302 of this title.”.

10 (3) EXTENSION OF ENLISTMENTS DURING WAR.—Section 506 is amended by
11 striking “Regular” before “Space Force”.

12 (4) REENLISTMENT.—Section 508 is amended striking “Regular” before “Space
13 Force” in subsections (b) and (c).

14 (5) ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL
15 SERVICE.—Section 510(c) is amended—

16 (A) in paragraph (2), by inserting “or the Space Force” after “Selected
17 Reserve”; and

18 (B) in paragraph (3)—

19 (i) by redesignating subparagraphs (D) and (E) as subparagraphs
20 (E) and (F), respectively;

21 (ii) by inserting after subparagraph (C) the following new
22 subparagraph (D):

23 “(D) in the Space Force;”; and

1 (iii) in subparagraph (F), as so redesignated, by striking
2 “subparagraphs (A) through (D)” and inserting “subparagraphs (A)
3 through (E)”.

4 (6) COLLEGE FIRST PROGRAM.—Section 511(b)(1)(A), is amended by inserting
5 “or as a member of the Space Force,” after “reserve component,”.

6 (7) DELAYED ENTRY PROGRAM.—Section 513(a) is amended—
7 (A) by inserting, “, or who is qualified under section 20301 of this title and
8 applicable regulations for enlistment in the Space Force,” after “armed force”; and
9 (B) by inserting “, or be enlisted as a member of the Space Force,” after
10 “Coast Guard Reserve”.

11 (8) EFFECT UPON ENLISTED STATUS OF ACCEPTANCE OF APPOINTMENT AS CADET OR
12 MIDSHIPMAN.—Section 516(b) is amended by inserting “or in the Space Force,” after
13 “armed force”.

14 **SEC. 1718. RETENTION AND SEPARATION GENERALLY.**

15 (a) IN GENERAL.—Subtitle F of title 10, United States Code, as amended by section 1717,
16 is further amended by adding at the end the following new chapter:

17 **“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. Transfer of excess points for a year to previous or subsequent year.
- “20405. Selection of officers for early retirement or discharge.
- “20406. Force shaping authority.

18 **“§ 20401. Applicability of certain provisions of law related to separation**

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

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

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

7 “(d) The provisions of section 1174 of this title—

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

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

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

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

17 “(f) The provisions of section 1176 of this title—

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

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

23 **“§20402. Enlisted members: standards and qualifications for retention**

24 “(a) STANDARDS AND QUALIFICATIONS FOR RETENTION.—The Secretary of the Air Force
25 shall, by regulation, prescribe—

1 “(1) standards and qualifications for the retention of enlisted members of the
2 Space Force; and

3 “(2) equitable procedures for the periodic determination of the compliance of each
4 such member with those standards and qualifications.

5 “(b) EFFECT OF FAILURE TO COMPLY WITH STANDARDS AND QUALIFICATIONS.—If an
6 enlisted member serving in Space Force active status fails to comply with the standards and
7 qualifications prescribed under subsection (a), the member shall—

8 “(1) if qualified, be transferred to Space Force inactive status;

9 “(2) if qualified, be retired in accordance with section 20603 of this title; or

10 “(3) have the member’s enlistment terminated.

11 **“§20403. Officers: standards and qualifications for retention**

12 “(a) STANDARDS AND QUALIFICATIONS.—To be retained in an active status, a Space
13 Force officer must—

14 “(1) in any applicable yearly period, attain the number of points under section
15 12732(a)(2) of this title that are prescribed by the Secretary of the Air Force; and

16 “(2) conform to such other standards and qualifications as the Secretary may
17 prescribe for officers of the Space Force.

18 “(b) LIMITATION ON MINIMUM NUMBER OF POINTS.—The Secretary may not prescribe a
19 minimum of more than 50 points under subsection (a).

20 “(c) RESULT OF FAILURE TO COMPLY.—A Space Force officer who fails to attain the
21 number of points prescribed under subsection (a)(1), or to conform to the standards and
22 qualifications prescribed under subsection (a)(2), may be referred to a board convened under
23 section 20501(a) of this title.

24 **“§20404. Transfer of excess points for a year to previous or subsequent year**

25 “(a) AUTHORITY TO TRANSFER POINTS TO MEET RETENTION REQUIREMENTS.—

1 “(1) IN GENERAL.—Subject to paragraph (3), a member of the Space Force may
2 transfer points earned in a year that are in excess of the applicable minimum number of
3 points prescribed by the Secretary of the Air Force from the year in which the points were
4 earned to either the previous year or the subsequent year for the purpose of meeting the
5 minimum number of points required for the year to which the points are transferred.

6 “(2) APPLICABLE MINIMUM NUMBER OF POINTS.—For purposes of paragraph (1),
7 the applicable minimum number of points—

8 “(A) in the case of an enlisted member, is the number of points (if any)
9 specified in the standards and qualifications prescribed by the Secretary under
10 section 20402(a)(1) of this title; and

11 “(B) in the case of an officer, is the number of points prescribed under
12 section 20403(a)(1) of this title.

13 “(3) TRANSFER PURSUANT TO REGULATIONS.—Points may be transferred under
14 paragraph (1) only as authorized under regulations prescribed by the Secretary of the Air
15 Force.

16 “(4) CREDITING OF TRANSFERRED POINTS.—Points transferred under paragraph (1)
17 shall be credited to the year to which transferred and not to the year from which
18 transferred.

19 “(b) CREDITING TRANSFERRED POINTS FOR QUALIFYING “GOOD YEARS” OF CREDITABLE
20 SERVICE FOR RETIREMENT.—For purposes of determining whether a member of the Space Force
21 is entitled to retired pay under section 12731 of this title, points transferred by the member under
22 subsection (a) shall be credited to the member under section 12732(a)(2) of this title for the
23 applicable one-year period to which the points were transferred (rather than the one-year in
24 which the points were originally credited).

25 **“§20405. Selection of officers for early retirement or discharge**

1 “(a) CONSIDERATION FOR EARLY RETIREMENT.—The Secretary of the Air Force may
2 convene selection boards under section 20211(b) of this title to consider for early retirement
3 officers on the space force officer list as follows:

4 “(1) Officers in the grade of lieutenant colonel who have failed of selection for
5 promotion at least one time and whose names are not on a list of officers recommended
6 for promotion.

7 “(2) Officers in the grade of colonel who have served in that grade for at least two
8 years and whose names are not on a list of officers recommended for promotion.

9 “(3) Officers, other than those described in paragraphs (1) and (2), holding a
10 grade below the grade of colonel—

11 “(A) who are eligible for retirement under section 20601 of this title or
12 who after two additional years or less of active service would be eligible for
13 retirement under that section; and

14 “(B) whose names are not on a list of officers recommended for
15 promotion.

16 “(b) CONSIDERATION FOR DISCHARGE.—

17 “(1) The Secretary of the Air Force may convene selection boards under section
18 20211 of this title to consider for discharge officers on the space force officer list —

19 “(A) who have served at least one year of active status in the grade
20 currently held;

21 “(B) whose names are not on a list of officers recommended for
22 promotion; and

23 “(C) who are not eligible to be retired under any provision of law (other
24 than by reason of eligibility pursuant to section 4403 of the National Defense

1 Authorization Act for Fiscal Year 1993) and are not within two years of becoming
2 so eligible.

3 “(2) An officer who is recommended for discharge by a selection board convened
4 pursuant to the authority of paragraph (1) and whose discharge is approved by the
5 Secretary of the Air Force shall be discharged on a date specified by the Secretary.

6 “(3) Selection of officers for discharge under paragraph (1) shall be based on the
7 needs of the service.

8 “(c) DISCHARGES AND RETIREMENTS CONSIDERED TO BE INVOLUNTARY.—The discharge
9 or retirement of an officer pursuant to this section shall be considered to be involuntary for
10 purposes of any other provision of law.

11 **“§20406. Force shaping authority**

12 “(a) AUTHORITY.—The Secretary of the Air Force may, solely for the purpose of
13 restructuring the Space Force—

14 “(1) discharge an officer described in subsection (b); or

15 “(2) involuntarily release such an officer from sustained duty.

16 “(b) COVERED OFFICERS.—

17 “(1) The authority under this section may be exercised in the case of an officer of
18 the Space Force serving on sustained duty who—

19 “(A) has completed not more than six years of service as a commissioned
20 officer in the armed forces; or

21 “(B) has completed more than six years of service as a commissioned
22 officer in the armed forces, but has not completed the minimum service obligation
23 applicable to that officer.

24 “(2) In this subsection, the term ‘minimum service obligation’, with respect to a
25 member of the Space Force, means the initial period of required active duty service

1 applicable to the member, together with any additional period of required active duty
2 service incurred by that member during the member's initial period of required active
3 duty service.

4 “(c) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations for the
5 exercise of the Secretary's authority under this section.”

6 (b) CONFORMING AMENDMENTS.—Section 647 of title 10, United States Code, is
7 amended—

8 (1) in subsection (b), by inserting “(other than an officer of the Space Force)”
9 after “in the case of an officer”;

10 (2) in subsection (c), by striking “Regular Marine Corps, of Regular Space Force”
11 and inserting “or Regular Marine Corps”; and

12 (3) by adding at the end the following new subsection:

13 “(e) SPACE FORCE.—For a similar provision with respect to officers of the Space Force,
14 see section 20406 of this title.”

15 **SEC. 1719. SEPARATION OF OFFICERS FOR SUBSTANDARD PERFORMANCE OF**
16 **DUTY OR FOR CERTAIN OTHER REASONS.**

17 Subtitle F of title 10, United States Code, as amended by section 1718, is further
18 amended by adding at the end the following new chapter:

19 **“CHAPTER 2011—SEPARATION OF OFFICERS FOR SUBSTANDARD**
20 **PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS**

“Sec.

“20501. Authority to establish procedures to consider the separation of officers for substandard
performance of duty and for certain other reasons.

“20502. Retention boards.

“20503. Removal of officer: action by Secretary upon recommendation of retention board.

“20504. Rights and procedures.

“20505. Officer considered for removal: voluntary retirement or discharge.

“20506. Officers eligible to serve on retention boards.

1 **“§20501. Authority to establish procedures to consider the separation of officers for**
2 **substandard performance of duty and for certain other reasons**

3 “(a) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO STANDARDS OF
4 PERFORMANCE OF DUTY.—

5 “(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for
6 the review at any time of the record of any commissioned officer (other than a retired
7 officer) of the Space Force in a space force active status to determine whether the officer
8 shall be required, because of a reason stated in paragraph (2), to show cause for the
9 officer’s retention in a space force active status.

10 “(2) The reasons referred to in paragraph (1) are the following:

11 “(A) The officer’s performance of duty has fallen below standards
12 prescribed by the Secretary of Defense.

13 “(B) The officer has failed to satisfy the standards and qualifications
14 established under section 20403 of this title by the Secretary of the Air Force.

15 “(b) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO CERTAIN OTHER
16 REASONS.—

17 “(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for
18 the review at any time of the record of any commissioned officer (other than a retired
19 officer) of the Space Force in a space force active status to determine whether the officer
20 should be required, because of a reason stated in paragraph (2), to show cause for the
21 officer’s retention in a space force active status.

22 “(2) The reasons referred to in paragraph (1) are the following:

23 “(A) Misconduct.

24 “(B) Moral or professional dereliction.

1 “(C) The officer’s retention is not clearly consistent with the interests of
2 national security.

3 “(c) SECRETARY OF DEFENSE LIMITATIONS.—Regulations prescribed by the Secretary of
4 the Air Force under this section are subject to such limitations as the Secretary of Defense may
5 prescribe.

6 **“§20502. Retention boards**

7 “(a) CONVENING OF BOARDS TO CONSIDER OFFICERS REQUIRED TO SHOW CAUSE.—The
8 Secretary of the Air Force shall convene retention boards at such times and places as the
9 Secretary may prescribe to receive evidence and make findings and recommendations as to
10 whether an officer who is required under section 20501 of this title to show cause for retention in
11 a space force active status should be retained in a space force active status. Each retention board
12 shall be composed of not less than three officers having the qualifications prescribed by section
13 20506 of this title.

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

17 “(c) EFFECT OF BOARD DETERMINATION THAN AN OFFICER HAS FAILED TO ESTABLISH
18 THAT THE OFFICER SHOULD BE RETAINED.—

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

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

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

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

1 “(2) Under regulations prescribed by the Secretary of the Air Force, an officer as
2 to whom a retention board makes a recommendation under paragraph (1) that the officer
3 not be retained in a space force active status may be required to take leave pending the
4 completion of the officer's case under this chapter. The officer may be required to begin
5 such leave at any time following the officer's receipt of the report of the retention board,
6 including the board's recommendation for removal from a space force active status, and
7 the expiration of any period allowed for submission by the officer of a rebuttal to that
8 report. The leave may be continued until the date on which action by the Secretary of the
9 Air Force on the officer's case is completed or may be terminated at any earlier time.

10 “(d) EFFECT OF BOARD DETERMINATION THAN AN OFFICER HAS ESTABLISHED THAT THE
11 OFFICER SHOULD BE RETAINED.—

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

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

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

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

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

13 **“§20503. Removal of officer: action by Secretary upon recommendation of retention board**

14 “The Secretary of the Air Force may remove an officer from space force active status if
15 the removal of such officer from space force active status is recommended by a retention board
16 convened under section 20502 of this title.

17 **“§20504. Rights and procedures**

18 “(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Air Force, each
19 officer required under section 20501 of this title to show cause for retention in a space force
20 active status—

21 “(1) shall be notified in writing, at least 30 days before the hearing of the officer’s
22 case by a retention board, of the reasons for which the officer is being required to show
23 cause for retention in a space force active status;

24 “(2) shall be allowed a reasonable time, as determined by the board, to prepare the
25 officer’s showing of cause for retention in a space force active status;

1 “(3) shall be allowed to appear either in person or through electronic means and to
2 be represented by counsel at proceedings before the board; and

3 “(4) shall be allowed full access to, and shall be furnished copies of, records
4 relevant to the officer’s case, except that the board shall withhold any record that the
5 Secretary determines should be withheld in the interest of national security.

6 “(b) SUMMARY OF RECORDS WITHHELD IN INTEREST OF NATIONAL SECURITY.—When a
7 record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to
8 the extent that the interest of national security permits, be furnished a summary of the record so
9 withheld.

10 **“§20505. Officer considered for removal: voluntary retirement or discharge**

11 “(a) IN GENERAL.—At any time during proceedings under this chapter with respect to the
12 removal of an officer from a space force active status , the Secretary of the Air Force may grant a
13 request by the officer—

14 “(1) for voluntary retirement, if the officer is qualified for retirement; or

15 “(2) for discharge in accordance with subsection (b)(2).

16 “(b) RETIREMENT OR DISCHARGE.—An officer removed from a space force active status
17 under section 20503 of this title shall—

18 “(1) if eligible for voluntary retirement under any provision of law on the date of
19 such removal, be retired in the grade and with the retired pay for which the officer would
20 be eligible if retired under such provision; and

21 “(2) if ineligible for voluntary retirement under any provision of law on the date
22 of such removal—

23 “(A) be honorably discharged in the grade then held, in the case of an
24 officer whose case was brought under subsection (a) of section 20501 of this title;

25 or

- “20601. Officers: voluntary retirement for length of service.
- “20602. Officers: computation of years of service for voluntary retirement.
- “20603. Enlisted members: voluntary retirement for length of service.
- “20604. Enlisted members: computation of years of service for voluntary retirement.
- “20605. Applicability of other provisions of law relating to retirement.

1 **“§20601. Officers: voluntary retirement for length of service**

2 “(a) TWENTY YEARS OR MORE.—The Secretary of the Air Force may, upon the officer's
3 request, retire a commissioned officer of the Space Force who has at least 20 years of service
4 computed under section 20602 of this title, at least 10 years of which have been active service as
5 a commissioned officer.

6 “(b) THIRTY YEARS OR MORE.—A commissioned officer of the Space Force who has at
7 least 30 years of service computed under section 20602 of this title may be retired upon the
8 officer’s request, in the discretion of the President.

9 “(c) FORTY YEARS OR MORE.—Except as provided in section 20503 of this title, a
10 commissioned officer of the Space Force who has at least 40 years of service computed
11 under section 20602 of this title shall be retired upon the officer’s request.

12 **“§20602. Officers: computation of years of service for voluntary retirement**

13 “(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an officer of
14 the Space Force may be retired under section 20601 of this title, the officer's years of service are
15 computed by adding all active service in the armed forces.

16 “(b) REFERENCE TO SECTION EXCLUDING SERVICE DURING CERTAIN PERIODS.—Section
17 972(b) of this title excludes from computation of an officer's years of service for purposes of this
18 section any time identified with respect to that officer under that section.

19 **“§20603. Enlisted members: voluntary retirement for length of service**

20 “(a) TWENTY TO THIRTY YEARS.—Under regulations to be prescribed by the Secretary of
21 the Air Force, an enlisted member of the Space Force who has at least 20, but less than 30, years
22 of service computed under section 20604 of this title may, upon the member’s request, be retired.

1 “(b) THIRTY YEARS OR MORE.—An enlisted member of the Space Force who has at least
2 30 years of service computed under section 20604 of this title shall be retired upon the member’s
3 request.

4 **“§20604. Enlisted members: computation of years of service for voluntary retirement**

5 “(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an enlisted
6 member of the Space Force may be retired under section 20603 of this title, the member’s years
7 of service are computed by adding all active service in the armed forces.

8 “(b) REFERENCE TO SECTION EXCLUDING COUNTING OF CERTAIN SERVICE REQUIRED TO
9 BE MADE UP.—Time required to be made up under section 972(a) of this title may not be
10 counted in computing years of service under subsection (a).

11 **“§20605. Applicability of other provisions of law relating to retirement**

12 “(a) APPLICABILITY TO MEMBERS OF THE SPACE FORCE.—Except as specifically provided
13 for by this chapter, the provisions of this title specified in subsection (b) apply to members of the
14 Space Force as follows:

15 “(1) Provisions pertaining to an officer of the Air Force shall apply to an officer
16 of the Space Force.

17 “(2) Provisions pertaining to an enlisted member of the Air Force shall apply to an
18 enlisted member of the Space Force.

19 “(3) Provisions pertaining to a regular officer shall apply to an officer who is on
20 sustained duty in the Space Force.

21 “(4) Provisions pertaining to a regular enlisted member shall apply to an enlisted
22 member who is on sustained duty in the Space Force.

23 “(5) Provisions pertaining to a reserve officer shall apply to an officer who is in a
24 space force active status but not on sustained duty.

1 “(6) Provisions pertaining to a reserve enlisted member shall apply to an enlisted
2 member who is in a space force active status but not on sustained duty.

3 “(7) Provisions pertaining to service in a regular component shall apply to service
4 on sustained duty.

5 “(8) Provisions pertaining to service in a reserve component shall apply to service
6 in a space force active status not on sustained duty.

7 “(9) Provisions pertaining to a member of the Ready Reserve shall apply to a
8 member of the Space Force who is in a space force active status prior to being ordered to
9 active duty.

10 “(10) Provisions pertaining to a member of the Retired Reserve shall apply to a
11 member of the Space Force who has retired under chapter 1223 of this title.

12 “(b) PROVISIONS OF LAW.—The provisions of this title referred to in subsection (a) are
13 the following:

14 “(1) Chapter 61, relating to retirement or separation for physical disability.

15 “(2) Chapter 63, relating to retirement for age.

16 “(3) Chapter 69, relating to retired grade.

17 “(4) Chapter 71, relating to computation of retired pay.

18 “(5) Chapter 941, relating to retirement from the Air Force for length of service.

19 “(6) Chapter 945, relating to computation of retired pay.

20 “(7) Chapter 1223, relating to retired pay for non-regular service.

21 “(8) Chapter 1225, relating to retired grade.”.

22 (b) CONFORMING AMENDMENTS.—Title 10, United States Code, is amended as follows:

23 (1) RETIRED MEMBERS ORDERED TO ACTIVE DUTY.—Section 688(b) is amended—

24 (A) in paragraph (1), by striking “Regular Marine Corps, or Regular Space
25 Force” and inserting “or Regular Marine Corps”; and

1 (B) by adding at the end the following new paragraph:

2 “(4) A retired member of the Space Force.”.

3 (2) RETIRED GRADE.—Section 9341 is amended—

4 (A) by striking “or the Space Force” both places it appears in subsection

5 (a);

6 (B) by striking “or a Regular or Reserve of the Space Force” in subsection

7 (b); and

8 (C) by adding at the end the following new subsection:

9 “(c) SPACE FORCE.—(1) The retired grade of a commissioned officer of the Space Force
10 who retires other than for physical disability is determined under section 1370 or 1370a of this
11 title, as applicable to the officer.

12 “(2) Unless entitled to a higher retired grade under some other provision of law, a
13 member of the Space Force not covered by paragraph (1) who retires other than for physical
14 disability retires in the grade that the member holds on the date of the member's retirement.”.

15 (3) RETIRED GRADE OF ENLISTED MEMBERS AFTER 30 YEARS OF SERVICE.—Section
16 9344(b)(2) is amended by striking “Regular” before “Space Force”.

17 (4) RETIRED LISTS.—Section 9346 is amended—

18 (A) in subsection (a), by striking “or the Regular Space Force” and
19 inserting “and a separate retired list containing the name of each retired
20 commissioned officer of the Space Force (other than an officer whose name is on
21 the list maintained under subsection (b)(2))”;

22 (B) in subsection (b)—

23 (i) by inserting “(1)” after “(b)”;

24 (ii) by redesignating paragraphs (1) and (2) as subparagraphs (A)
25 and (B), respectively;

1 (iii) in subparagraph (A), as so redesignated, by striking “, or for
2 commissioned officers of the Space Force other than of the Regular Space
3 Force”;

4 (iv) in subparagraph (B), as so redesignated, by striking “or the
5 Space Force”; and

6 (v) by adding at the end the following new paragraph:

7 “(2) The Secretary shall maintain a retired list containing the name of—

8 “(A) each person entitled to retired pay who as a member of the Space
9 Force qualified for retirement under section 20601 of this title; and

10 “(B) each retired warrant officer or enlisted member of the Space Force
11 who is advanced to a commissioned grade.”;

12 (C) in subsection (c), by striking “or the Space Force” and inserting “and a
13 separate retired list containing the name of each retired warrant officer of the
14 Space Force”; and

15 (D) in subsection (d), by striking “or the Regular Space Force” and
16 inserting “and a separate retired list containing the name of each retired enlisted
17 member of the Space Force”.

18 **Subtitle B—Conforming Amendments Related to Space Force Military**

19 **Personnel System**

20 **SEC. 1731. AMENDMENTS TO DEPARTMENT OF THE AIR FORCE PROVISIONS**

21 **OF TITLE 10, UNITED STATES CODE.**

22 (a) PROVISIONS RELATING TO PERSONNEL.—Part II of subtitle D of title 10, United States
23 Code, is amended as follows:

24 (1) GENDER-FREE BASIS FOR ACCEPTANCE OF ORIGINAL ENLISTMENTS.—

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(A) Section 9132 by striking “Regular” before “Space Force”.

(B) The heading of such section is amended by striking the fifth word.

(2) REENLISTMENT AFTER SERVICE AS AN OFFICER.—

(A) Section 9138(a) is amended by striking “Regular” before “Space Force” both places it appears.

(B) The heading of section 9138 is amended by striking the fifth word.

(3) WARRANT OFFICERS: ORIGINAL APPOINTMENT; QUALIFICATIONS.—Section 9160 is amended by striking “Regular” before Space Force”.

(4) SERVICE AS AN OFFICER TO BE COUNTED AS ENLISTED SERVICE.—Section 9252 is amended by striking “Regular” before “Space Force”.

(5) CHAPTER HEADING.—

(A) The heading of chapter 915 is amended to read as follows:

“CHAPTER 915—APPOINTMENTS IN THE REGULAR AIR FORCE AND IN THE SPACE FORCE”.

(B) The tables of chapters at the beginning of subtitle D, and at the beginning of part II of subtitle D of such title, are each amended by striking the item relating to chapter 915 and inserting the following new item:

“915. Appointments in the Regular Air Force and in the Space Force.....9151”.

(b) PROVISIONS RELATING TO TRAINING GENERALLY.—Section 9401 of such title is amended—

(1) in subsection (b)—

(A) by striking “or the Regular Space Force” after “Regular Air Force”;
and

(B) by inserting “or one of the Space Force in a space force active status not on sustained duty,” after “on the active-duty list,”;

1 (2) in subsection (c)—

2 (A) by striking “or Reserve of the Space Force” and inserting “or member
3 of the Space Force in a space force active status not on sustained duty”; and

4 (B) by striking “the Reserve’s consent” and inserting “the member’s
5 consent”; and

6 (3) in subsection (f)—

7 (A) by striking “the Regular Space Force” and inserting “of Space Force
8 members on sustained duty”; and

9 (B) by striking “the Space Force Reserve” and inserting “of Space Force
10 members in an active status not on sustained duty”.

11 (c) PROVISIONS RELATING TO THE AIR FORCE ACADEMY.—Chapter 953 of such title is
12 amended as follows:

13 (1) PERMANENT PROFESSORS; DIRECTOR OF ADMISSIONS.—Section 9436 is
14 amended—

15 (A) in subsection (a)—

16 (i) by striking “the equivalent grade in” both places it appears;

17 (ii) by inserting “or the Space Force” after “Regular Air Force” the
18 first place it appears;

19 (iii) by striking “and a permanent” and all that follows through “in
20 the Regular Air Force”; and

21 (B) in subsection (b)—

22 (i) by striking “the equivalent grade in” both places it appears and
23 inserting “the grade of lieutenant colonel in”; and

1 (ii) by striking “Regular Space Force has the grade equivalent to
2 the grade of colonel in the Regular Air Force” and inserting “Space Force
3 has the grade of colonel in the Space Force”.

4 (2) APPOINTMENT OF CADETS.—Section 9442(b) is amended—

5 (A) in paragraph (1)(C), by inserting “, or the Space Force,” after
6 “members of reserve components”; and

7 (B) in paragraph (2), by striking “Regular” before “Space Force”.

8 (3) AGREEMENT OF CADETS TO SERVE AS OFFICERS.—Section 9448(a) is
9 amended—

10 (A) in paragraph (2)(A), by striking “Regular” before “Space Force”; and

11 (B) in paragraph (3)—

12 (i) in the matter preceding subparagraph (A), by inserting “, or to
13 terminate the officer’s order to sustained duty in the Space Force” after
14 “resign as a regular officer”;

15 (ii) in subparagraph (A), by striking “or as a Reserve in the Space
16 Force for service in the Space Force Reserve” and inserting “or will accept
17 further assignment in a space force active status ”; and

18 (iii) in subparagraph (B), by inserting “, or the Space Force,” after
19 “that reserve component”.

20 (4) HAZING .—Section 9452(c) is amended by striking “Marine Corps, or Space
21 Force,” and inserting, “or Marine Corps, or in the Space Force,”.

22 (5) COMMISSION UPON GRADUATION.—Section 9453(b) is amended—

23 (A) by striking “or in the equivalent grade in the Regular Space Force”;
24 and

1 (B) by inserting before the period the following: “or a second lieutenant in
2 the Space Force under section 531 or 20201 of this title”.

3 (d) PROVISIONS RELATING TO SCHOOLS AND CAMPS.—Chapter 957 of such title is
4 amended as follows:

5 (1) PURPOSE.—Section 9481 is amended—

6 (A) by striking “to qualify them for appointment” and inserting “to qualify
7 them for—

8 “(1) appointment”;

9 (B) by striking “or the Space Force Reserve.” and inserting “; or”; and

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

11 “(2) appointment as officers, or enlistment as noncommissioned officers, for
12 service in the Space Force in a space force active status.”.

13 (2) OPERATION.—Section 9482(4) is amended by striking “or the Regular Space
14 Force” and inserting “or members of the Space Force in an active status”.

15 **SEC. 1732. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.**

16 (a) PROVISIONS RELATING TO ORGANIZATION AND GENERAL MILITARY POWERS.—Part I
17 of subtitle A of title 10, United States Code, is amended as follows:

18 (1) ANNUAL DEFENSE MANPOWER REPORT.—Section 115a(d)(3)(F) is amended by
19 inserting before the period the following: “or, in the case of the Space Force, officers
20 ordered to active duty other than under section 20105(b) of this title”.

21 (2) SUSPENSION OF END-STRENGTH AND OTHER STRENGTH LIMITATIONS IN TIME OF
22 WAR OR NATIONAL EMERGENCY.—Section 123a(a)(2) is amended by inserting “or the
23 Space Force” after “a reserve component”.

24 (3) DEPUTY COMMANDER OF USNORTHCOM.—Section 164(e)(4) is amended—

25 (A) by inserting “(A)” after “(4)”;

1 (B) by striking “shall be a” and all that follows and inserting “shall be—

2 “(i) a qualified officer of a reserve component who is eligible for

3 promotion to the grade of lieutenant general or, in the case of the Navy, vice

4 admiral; or

5 “(ii) a qualified officer of the Space Force whose prior service includes

6 service in a space force active status other than sustained duty and who is eligible

7 for promotion to the grade of lieutenant general.”; and

8 (C) by adding at the end the following new subparagraph:

9 “(B) The requirement in subparagraph (A) does not apply when the officer

10 serving as commander of the combatant command described in that subparagraph is (i) a

11 reserve component officer, or (ii) an officer of the Space Force whose prior service

12 includes service in a space force active status other than sustained duty.”.

13 (4) READINESS REPORTS.—Section 482(a) is amended by inserting “and the Space
14 Force” after “active and reserve components” in paragraphs (1) and (2).

15 (b) DOPMA OFFICER PERSONNEL PROVISIONS.—Chapter 36 of such title is amended as
16 follows:

17 (1) NONDISCLOSURE OF BOARD PROCEEDINGS.—Section 613a is amended by
18 striking “573, 611, or 628” and inserting “573, 611, 628, or 20211” in subsections (a) and

19 (c).

20 (2) INFORMATION FURNISHED TO SELECTION BOARDS.—Section 615(a) is
21 amended—

22 (A) in paragraph (1), by inserting “or 20211” after “section 611(a)”; and

23 (B) in paragraph (3)—

1 (i) in subparagraph (B), by striking “regular officer” and all that
2 follows and inserting “regular officer or an officer in the Space Force, a
3 grade above captain or, in the case of the Navy, lieutenant.”; and

4 (ii) in subparagraph (D)—

5 (I) by striking “major general,” and inserting “major
6 general or”; and

7 (II) by striking “or, in the case of the Space Force, the
8 equivalent grade,”.

9 (3) ELIGIBILITY FOR CONSIDERATION FOR PROMOTION: TIME-IN-GRADE AND OTHER
10 REQUIREMENTS.—Section 619(a) is amended by striking “Marine Corps, or Space Force”
11 each place it appears and inserting “or Marine Corps”.

12 (4) AUTHORITY TO VACATE PROMOTIONS TO GRADES OF BRIGADIER GENERAL AND
13 REAR ADMIRAL (LOWER HALF).—Section 625(b) is amended—

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

16 (B) adding at the end the following new sentence: “An officer of the Space
17 Force whose promotion is vacated under this section holds the grade of colonel.”.

18 (5) ACCEPTANCE OF PROMOTIONS; OATH OF OFFICE.—Subsections (a) and (b) of
19 section 626 are amended by striking “section 624” and inserting “section 624 or 20251”.

20 (6) SPECIAL SELECTION REVIEW BOARD.—Section 628a is amended—

21 (A) in subsection (a)(1)(A)—

22 (i) by striking “major general,” and inserting “major general or”;
23 and

24 (ii) by striking “, or an equivalent grade in the Space Force”;

1 (B) in subsection (e)(2), by adding at the end the following new sentence:
2 “However, in the case of an officer on the space force officer list, the provisions
3 of sections 618, 20215, and 20216 of this title apply to the report and proceedings
4 of a special selection review board convened under this section in the same
5 manner as they apply to report and proceedings of a promotion board convened
6 under section 20211 of this title.”, and

7 (C) in subsection (f)(1), by adding at the end the following new sentence:
8 “However, if the report of a special selection review board convened under this
9 section recommends the sustainment of the recommendation for promotion to the
10 next higher grade of an officer on the space force officer list who was referred to
11 it for review under this section, and the President approves the report, the officer
12 shall, as soon as practicable, be appointed to the grade in accordance with
13 subsections (b) and (c) of section 20238 of this title.”.

14 (7) REMOVAL FROM LIST OF OFFICERS RECOMMENDED FOR PROMOTION.—Section
15 629 is amended—

16 (A) in subsection (b), by inserting “or 20251(c)” after “section 624(c)”;
17 and

18 (B) in subsections (c)(1) and (c)(4)—

19 (i) by inserting “or 20251(a)” after “section 624(a)”;

20 (ii) by inserting “or 20251(c)” after “section 624(c)”.

21 (8) RETIREMENT FOR YEARS OF SERVICE.—

22 (A) LIEUTENANT COLONELS.—Section 633(a) is amended—

23 (i) by inserting “(1)” before “Except as”;

24 (ii) by striking “Regular Marine Corps, or Regular Space Force”

25 and inserting “or Regular Marine Corps”; and

1 (iii) by adding at the end the following new paragraph:

2 “(2) Except as provided under section 637(b) or 637a of this title, each officer of the
3 Space Force who holds the grade of lieutenant colonel who is not on a list of officers
4 recommended for promotion to the grade of colonel shall, if not earlier retired, be retired on the
5 first day of the month after the month in which the officer completes 28 years of active
6 commissioned service.”.

7 (B) COLONELS.—Section 634(a) is amended—

8 (i) by inserting “(1)” before “Except as”;

9 (ii) by striking “Regular Marine Corps, or Regular Space Force”

10 and inserting “or Regular Marine Corps”; and

11 (iii) by adding at the end the following new paragraph:

12 “(2) Except as provided under section 637(b) or 637a of this title, each officer of the
13 Space Force who holds the grade of colonel who is not on a list of officers recommended for
14 promotion to the grade of brigadier general shall, if not earlier retired, be retired on the first day
15 of the month after the month in which the officer completes 30 years of active commissioned
16 service.”.

17 (C) BRIGADIER GENERALS.—Section 635 is amended—

18 (i) by inserting “(a) ARMY, NAVY, AIR FORCE, AND MARINE

19 CORPS.—” before “Except as”;

20 (ii) by striking “Regular Marine Corps, or Regular Space Force”

21 and inserting “or Regular Marine Corps”; and

22 (iii) by adding at the end the following new subsection:

23 “(b) SPACE FORCE.—Except as provided under section 637(b) or 637a of this title, each
24 officer of the Space Force who holds the grade of brigadier general who is not on a list of

1 officers recommended for promotion to the grade of major general shall, if not earlier retired, be
2 retired as specified in subsection (a).”.

3 (D) OFFICERS IN GRADES ABOVE BRIGADIER GENERAL.—Section 636(a) is
4 amended—

5 (i) by inserting “(1)” before “Except as”;

6 (ii) by striking “Regular Marine Corps, or Regular Space Force”
7 and inserting “or Regular Marine Corps”; and

8 (iii) by adding at the end the following new paragraph:

9 “(2) Except as provided in subsection (b) or (c) and under section 637(b) or 637a
10 of this title, each officer of the Space Force who holds the grade of major general shall, if
11 not earlier retired, be retired as specified in paragraph (1).”.

12 (E) SECTION HEADINGS.—

13 (i) The heading of section 633 is amended by striking “**lieutenant**
14 **colonels and**” and inserting “**and Space Force lieutenant colonels;**
15 **regular Navy**”.

16 (ii) The heading of section 634 is amended by striking “**colonels**
17 **and**” and inserting “**and Space Force colonels; regular**”.

18 (iii) The heading of section 635 is amended by striking “**brigadier**
19 **generals and**” and inserting “**and Space Force brigadier generals;**
20 **regular Navy**”.

21 (iv) The heading of section 636 is amended by striking “**officers in**
22 **grades above brigadier general and**” and inserting “**and Space Force**
23 **officers in grades above brigadier general; regular Navy officers in**
24 **grades above**”.

1 (c) MANAGEMENT POLICIES FOR JOINT QUALIFIED OFFICERS.—Section 661(a) of such title
2 is amended—

3 (1) by striking “Marine Corps, and Space Force” and inserting “and Marine
4 Corps”; and

5 (2) by inserting “, and officers of the Space Force on the space force officer list,”
6 after “active-duty list”.

7 (d) LEAVE.—Chapter 40 of such title is amended as follows:

8 (1) ENTITLEMENT AND ACCUMULATION.—Section 701 is amended—

9 (A) in subsection (h)—

10 (i) by inserting at the end of paragraph (2) the following new
11 subparagraph:

12 “(D) A member of the Space Force in a space force active status, not on
13 sustained duty.”; and

14 (ii) in paragraphs (5)(B) and (6), by inserting “, or of the Space
15 Force,” after “member of a reserve component”; and

16 (B) in subsection (i), by inserting “, or of the Space Force,” after “member
17 of a reserve component”.

18 (2) PAYMENT UPON DISAPPROVAL OF CERTAIN BOARD OF INQUIRY

19 RECOMMENDATIONS FOR EXCESS LEAVE REQUIRED TO BE TAKEN .—Section 707a(a)(1) is
20 amended by inserting “or 20503” after “section 1182(c)(2)”.

21 (3) CAREER FLEXIBILITY TO ENHANCE RETENTION OF MEMBERS.—Section 710 is
22 amended—

23 (A) in subsection (a), by inserting “or of the Space Force” after “regular
24 components”;

1 (B) in subsection (b)(2), by inserting “, or a Space Force officer in a space
2 force active status not on active duty under section 20105(b) of this title,” after
3 “officer”;

4 (C) in subsection (c)(1), by inserting before the period at the end the
5 following: “or, in the case of a member of the Space Force on sustained duty, to
6 accept release from sustained duty orders and to serve in a space force active
7 status”; and

8 (D) in subsection (g)(1)(A), by striking “chapter 36 or 1405” and inserting
9 “chapter 36, 1405, or 2005”.

10 (e) LIMITATION ON NUMBER OF OFFICES WHO MAY BE FROCKED TO A HIGHER GRADE.—
11 Section 777(d)(2) of such title is amended by inserting “, or for the Space Force, the space force
12 officer list,” after “active-duty list”.

13 (f) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of
14 Military Justice), is amended as follows:

15 (1) PERSONS SUBJECT TO UCMJ.—Section 802 (article 2) is amended—

16 (A) in subsection (a)—

17 (i) in paragraph (1), by inserting “and members of the Space Force
18 on active duty under section 20105 of this title,” after “regular component
19 of the armed forces,”;

20 (ii) in paragraph (3)(A)(i), by inserting “or the Space Force” after
21 “reserve component”;

22 (iii) in paragraph (5), by inserting “, or retired members of the
23 Space Force who qualified for a non-regular retirement and are receiving
24 retired pay,” after “a reserve component”; and

25 (iv) by adding at the end the following new paragraph:

1 “(14) Retired members of the Space Force who qualified for a regular retirement
2 under section 20603 of this title and are receiving retired pay.”; and

3 (B) in subsection (d)—

4 (i) in paragraph (1), by inserting “or the Space Force” after
5 “reserve component”;

6 (ii) in paragraph (2), by inserting “or the Space Force” after “a
7 reserve component”; and

8 “(iii) in paragraph (4), by inserting “or the Space Force” after “in a
9 regular component of the armed forces”.

10 (2) JURISDICTION TO TRY CERTAIN PERSONNEL.—Subsection (d) of section 803
11 (article 3) is amended by inserting, “or the Space Force” after “reserve component”.

12 (3) ARTICLES TO BE EXPLAINED.—Section 937 (article 137) is amended—

13 (A) in subsection (a)(1)—

14 (i) by striking “or” at the end of subparagraph (A);

15 (ii) by striking the period at the end of subparagraph (B) and
16 inserting “; or”; and

17 (iii) by adding at the end the following new subparagraph:

18 “(C) the member’s initial entrance on active duty or into a space force
19 active status.”;

20 (B) in subsection (a)(2)—

21 (i) by striking “and” at the end of subparagraph (A);

22 (ii) by redesignating subparagraph (B) as subparagraph (C); and

23 (iii) by inserting after subparagraph (A) the following new
24 subparagraph:

1 “(B) after a member of Space Force has completed six months of sustained
2 duty or in the case of a member not on sustained duty, after the member has
3 completed basic or recruit training; and”;

4 (C) in subsection (b)(1)(B), by inserting “or the Space Force” after “in a
5 reserve component”; and

6 (D) in subsection (d), by striking “or to a member of a reserve
7 component,” and inserting “, to a member of a reserve component, or to a member
8 of the Space Force,”.

9 (f) RESTRICTION ON PERFORMANCE OF CIVIL FUNCTIONS BY OFFICERS ON ACTIVE

10 DUTY.—Section 973(b)(1) of such title 10 is amended—

11 (1) by striking “and” at the end of subparagraph (B);

12 (2) by striking the period at the end of subparagraph (C) and inserting “; and”; and

13 (3) by adding at the end the following new subparagraph:

14 “(D) to an officer on the space force officer list serving on active duty under
15 section 20105(b) of this title or under a call or order to active duty for a period in excess
16 of 270 days.”.

17 (h) USE OF COMMISSARY STORES AND MWR RETAIL FACILITIES.—Section 1063 of such
18 title is amended—

19 (1) in subsection (c)—

20 (A) in the heading, by inserting “AND SPACE FORCE” after “RESERVE”; and

21 (B) by inserting “or the Space Force” after “reserve component”;

22 (2) by redesignating subsections (d) and (e) as subsections (e) and (f),
23 respectively;

24 (3) by inserting after subsection (c) the following new subsection (d):

1 “(d) MEMBERS OF THE SPACE FORCE.—A member of the Space Force in a space force
2 active status who is not on sustained duty shall be permitted to use commissary stores and MWR
3 retail facilities under the same conditions as specified in subsection (a) for a member of the
4 Selected Reserve.”; and

5 (4) in subsection (e), as redesignated by paragraph (2), by striking “subsection (a)
6 or (b)” in paragraph (1) and inserting “subsection (a), (b), or (d)”.

7 (i) MEMBERS INVOLUNTARY SEPARATED.—

8 (1) ELIGIBILITY FOR CERTAIN BENEFITS AND SERVICES.—Section 1141 of such title
9 is amended—

10 (A) by striking “and” at the end of paragraph (3);

11 (B) by striking the period at the end of paragraph (4) and inserting a
12 semicolon; and

13 (C) by adding at the end the following new paragraphs:

14 “(5) in the case of an officer of the Space Force (other than a retired officer), the
15 officer is involuntarily discharged or released from active duty under other than adverse
16 conditions, as characterized by the Secretary of the Air Force; and

17 “(6) in the case of an enlisted member of the Space Force, the member is—

18 “(A) denied reenlistment; or

19 “(B) involuntarily discharged or released from active duty under other
20 than adverse conditions, as characterized by the Secretary of the Air Force.”.

21 (2) SEPARATION PAY.—Section 1174(a)(2) of such title is amended by striking “,
22 Marine Corps, or Space Force” both places it appears and inserting “or Marine Corps”.

23 (j) BOARDS FOR THE CORRECTION OF MILITARY RECORDS.—Chapter 79 of such title is
24 amended as follows:

1 (1) REVIEW OF ACTIONS OF SELECTION BOARDS AND CORRECTION OF MILITARY

2 RECORDS.—Section 1558 is amended—

3 (A) inserting “, or the Space Force,” after “reserve component” each place
4 it appears; and

5 (B) in subsection (b)—

6 (i) in paragraph (1)(C), by striking “section 628 or 14502” and
7 inserting “section 628, 14502, or 20251”;

8 (ii) in paragraph (2)(A), by striking “or 14705” and inserting
9 “14705, or 20403”; and

10 (iii) in paragraph (2)(B)(i), by striking “or 14101(a)” and inserting
11 “14101(a), or 20211”.

12 (2) TITLE OF AIR FORCE SERVICE REVIEW AGENCY.—

13 (A) Sections 1555(c)(3) and 1557(f)(3) are amended by inserting “the
14 Department of” after “Air Force,”.

15 (B) Section 1556(a) is amended by inserting “the Department of” after
16 “the Army Review Boards Agency,”.

17 (C) Section 1559(c)(3) is amended by inserting “the Department of the”
18 after “Air Force,”.

19 (k) MILITARY FAMILY PROGRAMS.—Chapter 88 of such title is amended as follows:

20 (1) MEMBERS OF DEPARTMENT OF DEFENSE MILITARY READINESS COUNCIL.—

21 Section 1781a(b)(1)(B)(iii) is amended—

22 (A) by striking “member and” and inserting “member,”; and

23 (B) by inserting “, and one of whom shall be the spouse or parent of a
24 member of the Space Force” after “parent of a reserve component member”.

1 (2) DEPARTMENT OF DEFENSE POLICY AND PLANS FOR MILITARY FAMILY

2 READINESS.—Section 1781b is amended—

3 (A) in subsection (b)(3), by striking “military families of members of the
4 regular components and military families of members of the reserve components”
5 and inserting “military families of members of the regular components, the
6 reserve components, and the Space Force”; and

7 (B) in subsection (c)(2)—

8 (i) by striking “both”; and

9 (ii) by striking “military families of members of the regular
10 components and military families of members of the reserve components”
11 and inserting “military families of members of the regular components,
12 members of the reserve components, and members of the Space Force”.

13 (I) TRAINING AND EDUCATION PROGRAMS.—

14 (1) PAYMENT OF TUITION FOR OFF-DUTY TRAINING OR EDUCATION.—Section 2007
15 of such title is amended by adding at the end the following new subsection:

16 “(g) The provisions of this section pertaining to members of the Ready Reserve, the
17 Selected Reserve, or the Individual Ready Reserve also apply to members of the Space Force in
18 a space force active status who are not on active duty.”.

19 (2) ROTC FINANCIAL ASSISTANT PROGRAM FOR SPECIALLY SELECTED MEMBERS.—

20 Section 2107 of such title is amended—

21 (A) in subsection (a)—

22 (i) by striking “Navy,” and inserting “Navy or”; and

23 (ii) by striking “or as an officer in the equivalent grade in the
24 Space Force”; and

25 (B) by adding at the end the following a new subsection:

1 “(k) APPLICABILITY TO SPACE FORCE.—(1) Provisions of this section referring to a
2 regular commission, regular officer, or a commission in a regular component shall be treated as
3 also referring to the commission of an officer, or an officer, who is a commissioned officer in the
4 Space Force serving on active duty pursuant to section 20105(b) of this title.

5 “(2) Provisions of this section referring to a reserve commission, reserve officer, or a
6 commission in a reserve component shall be treated as also referring to the commission of an
7 officer, or an officer, who is a commissioned officer in the Space Force not serving on active
8 duty pursuant to section 20105(b) of this title.”.

9 (3) DUTY AS ROTC ADMINISTRATORS AND INSTRUCTORS.—Section 2111 of such
10 title is amended by adding at the end the following new sentence: “The Secretary of the
11 Air Force may detail members of the Space Force in the same manner as regular and
12 reserve members of the Air Force.”.

13 **SEC. 1733. TITLE 38, UNITED STATES CODE (VETERANS’ BENEFITS).**

14 (a) DEFINITIONS.—

15 (1) GENERAL DEFINITIONS.—Section 101 of title 38, United States Code, is
16 amended—

17 (A) in paragraph (23), by inserting “, or for members of the Space Force
18 in a space force active status (as defined in section 101(e)(1) of title 10),” in
19 subparagraphs (A) and (B) after “(including commissioned officers of the Reserve
20 Corps of the Public Health Service)”; and

21 (B) in paragraph (27)—

22 (i) by striking subparagraph (E); and

23 (ii) by redesignating subparagraphs (F), (G), and (H) as
24 subparagraphs (E), (F), and (G), respectively.

1 (2) DEFINITIONS FOR PURPOSES OF SGLI.—Section 1965 of such title is
2 amended—

3 (A) in paragraph (2)(A), by inserting “, or by members of the Space Force
4 in a space force active status (as defined in section 101(e)(1) of title 10) but not on
5 sustained duty under section 20105 of title 10,” after “by Reserves”; and

6 (B) in paragraph (3)(A), by inserting “, or for members of the Space Force
7 in a space force active status (as defined in section 101(e)(1) of title 10),” after
8 “(including commissioned officers of the Reserve Corps of the Public Health
9 Service)”.

10 (b) PERSONS ELIGIBLE FOR INTERMENT IN NATIONAL CEMETERIES.—Section 2402(a) of
11 such title is amended in paragraph (2), by inserting “ any member of the Space Force,” after “a
12 Reserve component of the Armed Forces,”.

13 (c) EDUCATIONAL ASSISTANCE.—

14 (1) MONTGOMERY GI BILL.—Section 3011(a)(3)(D) of such title is amended by
15 inserting “or for further service in the Space Force in a space force active status not on
16 sustained duty under section 20105 of title 10” after “of the Armed Forces,”.

17 (2) POST 9-11 GI BILL.—Section 3311(c)(3) of such title is amended by inserting “,
18 or for further service in the Space Force in a space force active status not on sustained
19 duty under section 20105 of title 10,” after “of the Armed Forces” the second place it
20 appears.

21 **SEC. 1734. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

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

23 (1) in the third sentence (beginning “Notwithstanding section”), by inserting “an
24 officer of the Space Force not serving on sustained duty pursuant to section 20105 of title
25 10,” after “of the Armed Forces,”; and

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

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

5 (c) CROSS-REFERENCE AMENDMENT.—Section 202(a) of such title, as amended by
6 subsection (a), is further amended by striking “section 29(c) and (d) of the Act of August 10,
7 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d))” and inserting “sections 502, 2105(d), and 5534 of
8 title 5”.

9 **SEC. 1735. CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

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

12 (1) in subsection (a)(1), by striking “as a Reserve of the armed forces or member
13 of the National Guard” and inserting “as a Reserve of the armed forces, a member of the
14 National Guard, or a member of the Space Force in space force active status (as defined
15 in section 101(e)(1) of title 10) and not on sustained duty under section 20105 of title
16 10”; and

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

20 (b) CLERICAL AMENDMENTS.—

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

23 **“§6323. Military leave: Reserves, National Guard members, and certain members of the**
24 **Space Force”.**

1 (2) TABLE OF SECTIONS.—The item relating to such section in the table of sections
2 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.”.

3 **Subtitle C—Transition Provisions**

4 **SEC. 1741. TRANSITION PERIOD.**

5 In this subtitle, the term “transition period” means the period beginning on the date of the
6 enactment of this Act and ending on the last day of the fourth fiscal year beginning after the date
7 of the enactment of this Act.

8 **SEC. 1742. CHANGE OF DUTY STATUS OF MEMBERS OF THE SPACE FORCE.**

9 (a) CHANGE OF DUTY STATUS.—

10 (1) CONVERSION OF STATUS AND ORDER TO SUSTAINED DUTY.—During the
11 transition period, the Secretary of the Air Force shall change the duty status of each
12 member of the Regular Space Force to space force active status and shall, at the same
13 time, order the member to sustained duty under section 20105 of title 10, United States
14 Code, as added by section 1715. Any such order may be made without regard to any
15 otherwise applicable requirement that such an order be made only with the consent of the
16 member or as specified in an enlistment agreement or active-duty service commitment.

17 (2) DEFINITIONS.—For purposes of this section, the terms “space force active
18 status” and “sustained duty” have the meanings given those terms by subsection (e) of
19 section 101 of title 10, United States Code, as added by section 1713(a).

20 (b) EFFECTIVE DATE OF CHANGE OF DUTY STATUS.—The change of a member’s duty
21 status and order to sustained duty in accordance with subsection (a) shall be effective on the date
22 specified by the Secretary of the Air Force, but not later than the last day of the transition period.

23 **SEC. 1743. TRANSFER TO THE SPACE FORCE OF MEMBERS OF THE AIR FORCE** 24 **RESERVE.**

1 (a) TRANSFER OF MEMBERS OF THE AIR FORCE RESERVE .—

2 (1) OFFICERS.—During the transition period, the Secretary of Defense may, with
3 the officer’s consent, transfer a covered officer of the Air Force Reserve to, and appoint
4 the officer in, the Space Force.

5 (2) ENLISTED MEMBERS.—During the transition period, the Secretary of the Air
6 Force may transfer each covered enlisted member of the Air Force Reserve to the Space
7 Force, other than those members who do not consent to the transfer.

8 (3) EFFECTIVE DATE OF TRANSFERS.—Each transfer under this subsection shall be
9 effective on the date specified by the Secretary of Defense, in the case of an officer, or
10 the Secretary of the Air Force, in the case of an enlisted member, but not later than the
11 last day of the transition period.

12 (b) REGULATIONS.—Transfers under subsection (a) shall be carried out under regulations
13 prescribed by the Secretary of Defense. In the case of an officer, applicable regulations shall
14 include those prescribed pursuant to section 716 of title 10, United States Code.

15 (c) TERM OF INITIAL ENLISTMENT IN SPACE FORCE.—In the case of a covered enlisted
16 member who is transferred to the Space Force in accordance with subsection (a), the Secretary of
17 the Air Force may accept the initial enlistment of the member in the Space Force for a period of
18 less than 2 years, but only if the period of enlistment in the Space Force is not less than the
19 period remaining, as of the date of the transfer, in the member’s term of enlistment in the Air
20 Force Reserve.

21 (d) End STRENGTH ADJUSTMENTS UPON TRANSFERS FROM AIR FORCE RESERVE TO SPACE
22 FORCE.— During the transition period, upon the transfer of a mission of the Air Force Reserve to
23 the Space Force—

1 (1) the end strength authorized for the Space Force pursuant to section
2 115(a)(1)(A) of title 10, United States Code, for the fiscal year during which the transfer
3 occurs shall be increased by the number of billets associated with that mission; and

4 (2) the end strength authorized for the Air Force Reserve pursuant to section
5 115(a)(2) of such title for such fiscal year shall be decreased by the same number.

6 (e) ADMINISTRATIVE PROVISIONS. —For purposes of the transfer of covered members of
7 the Air Force Reserve in accordance with subsection (a):

8 (1) the Air Force Reserve and the Space Force shall be considered to be
9 components of the same Armed Force, and

10 (2) the space force officer list shall be considered to be an active-duty list of an
11 Armed Force.

12 (f) RETRAINING AND REASSIGNMENT FOR MEMBERS NOT TRANSFERRING.—If a covered
13 member of the Air Force Reserve does not consent to transfer to the Space Force in accordance
14 with subsection (a), the Secretary of the Air Force may, as determined appropriate by the
15 Secretary in the case of the individual member, provide the member retraining and reassignment
16 within the Air Force Reserve.

17 (g) COVERED MEMBERS.—For purposes of this section, the term “covered”, with respect
18 to a member of the Air Force Reserve, means—

19 (1) a member who as of the date of the enactment of this Act holds an Air Force
20 specialty code for a specialty held by members of the Space Force; and

21 (2) any other member designated by the Secretary of the Air Force for the
22 purposes of this section.

23 **SEC. 1744. PLACEMENT OF OFFICERS ON THE SPACE FORCE OFFICER LIST.**

24 (a) PLACEMENT ON LIST.—Officers of the Space Force whose duty status is changed in
25 accordance with section 1742, and officers of the Air Force Reserve who transfer to the Space

1 Force in accordance with section 1743, shall be placed on the Space Force officer list in an order
2 determined by their respective grades and dates of rank.

3 (b) OFFICERS OF SAME GRADE AND DATE OF RANK.—Among officers of the same grade
4 and date of rank, placement on the Space Force officer list shall be in the order of their rank as
5 determined in accordance with section 741(c) of title 10, United States Code.

6 **SEC. 1745. DISESTABLISHMENT OF REGULAR SPACE FORCE.**

7 (a) DISESTABLISHMENT.—The Secretary of the Air Force shall disestablish the Regular
8 Space Force not later than the end of the transition period, once there are no longer any members
9 remaining in the Regular Space Force. The Regular Space Force shall be disestablished upon the
10 completion of the change of duty status of all members of the Space Force pursuant to section
11 1742 and certification by the Secretary of the Air Force to the congressional defense committees
12 that there are no longer any members of the Regular Space Force.

13 (b) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—The Secretary shall publish in the
14 Federal Register notice of the disestablishment of the Regular Space Force, including the date
15 thereof, together with any certification submitted pursuant to subsection (a).

16 (c) CONFORMING REPEAL.—

17 (1) REPEAL.—Section 9085 of title 10, United States Code, relating to the
18 composition of the Regular Space Force, is repealed.

19 (2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect
20 on the date on which the certification is submitted under subsection (a).

21 **SEC. 1746. END STRENGTH FLEXIBILITY.**

22 (a) ADDITIONAL AUTHORITY TO VARY END STRENGTHS.—

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

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

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

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

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

11 (b) TEMPORARY EXEMPTION FOR THE SPACE FORCE FROM END STRENGTH GRADE
12 RESTRICTIONS.—Sections 517 and 523 of title 10, United States Code, shall not apply to the
13 Space Force during the transition period.

14 **SEC. 1747. PROMOTION AUTHORITY FLEXIBILITY.**

15 (a) PROMOTION AUTHORITY FLEXIBILITY.—During the transition period, the Secretary of
16 the Air Force may convene selection boards to consider officers on the space force officer list for
17 promotion, and may promote Space Force officers selected by such boards, in accordance with
18 any of the following provisions of title 10, United States Code:

19 (1) Chapter 36.

20 (2) Part III of subtitle E.

21 (3) Chapter 2005, as added by section 1716.

22 (b) COORDINATION OF PROVISIONS.—

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

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

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

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

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

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

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

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

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

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

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

22 (c) EFFECT OF USING NEW CHAPTER 2005 AUTHORITIES.—If the Secretary of the Air
23 Force convenes a selection board under chapter 2005 of title 10, United States Code, as added by
24 section 1716, to consider officers on the space force officer list in a particular grade and
25 competitive category for selection for promotion to the next higher grade, the Secretary may not

1 convene a future selection board pursuant to subsection (a) to consider officers of the same grade
2 and competitive category under chapter 36 or part III of subtitle E of such title.

3 **Subtitle D—Other Amendments Related to the Space Force**

4 **SEC. 1751. TITLE 10, UNITED STATES CODE.**

5 (a) AMENDMENTS RELATING TO THE DESIGNATION OF GRADES FOR SPACE FORCE
6 OFFICERS.—Title 10, United States Code, is amended as follows:

7 (1) COMMISSIONED OFFICER GRADES.—Section 9151 is amended by inserting “and
8 in the Space Force” after “in the Regular Air Force”.

9 (2) RANK.—Section 741(a) is amended in the table by striking “and Marine
10 Corps” and inserting “Marine Corps, and Space Force”.

11 (3) DEFINITION OF GENERAL OFFICER.—Section 101(b)(4) is amended by striking
12 “or Marine Corps” and inserting “Marine Corps, or Space Force”.

13 (4) TEMPORARY APPOINTMENTS TO POSITIONS DESIGNATED TO CARRY THE GRADE
14 OF GENERAL OR LIEUTENANT GENERAL.—Section 601(e) is amended—

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

17 (B) by striking “or the commensurate grades in the Space Force,”.

18 (5) RETIRED GRADE OF OFFICERS.—Section 1370 is amended as follows:

19 (A) Subsection (a)(2) is amended by striking “major general” and all that
20 follows in subparagraphs (A) and (B) and inserting “major general or rear
21 admiral.”.

22 (B) Subsection (b) is amended —

23 (i) in paragraph (1)—

1 (I) by striking “or Marine Corps” and all that follows
2 through “the Space Force,” and inserting “Marine Corps, or, Space
3 Force or lieutenant in the Navy,”; and

4 (II) in subparagraph (B), by striking “major general” and all
5 that follow through “Space Force” and inserting “major general or
6 rear admiral”;

7 (ii) in paragraph (4), by striking “or Marine Corps” and all that
8 follows through “Space Force,” and inserting “Marine Corps, or Space
9 Force or captain in the Navy,”;

10 (iii) in paragraph (5)—

11 (I) in subparagraph (A), by striking “or Marine Corps” and
12 all that follows through “Space Force,” and inserting “Marine
13 Corps, or Space Force or lieutenant commander in the Navy,”;

14 (II) in subparagraph (B), by striking “or Marine Corps” and
15 all that follows through “Space Force,” and inserting “Marine
16 Corps, or Space Force or commander or captain in the Navy,”; and

17 (III) in subparagraph (C), by striking “or Marine Corps”
18 and all that follows through “Space Force,” and inserting “Marine
19 Corps, or Space Force or rear admiral (lower half) or rear admiral
20 in the Navy,”; and

21 (iv) in paragraph (6), by striking “, or an equivalent grade in the
22 Space Force,”.

23 (C) Subsection (c)(1) is amended by “or Marine Corps” and all that
24 follows through “Space Force” and inserting “Marine Corps, or Space Force or
25 vice admiral or admiral in the Navy”.

1 (D) Subsection (d) is amended—

2 (i) in paragraph (1), by striking “or Marine Corps” and all that
3 follows through “Space Force” and inserting “Marine Corps, or Space
4 Force or rear admiral in the Navy”; and

5 (ii) in paragraph (3), by striking “or Marine Corps” and all that
6 follows through “Space Force,” and inserting “Marine Corps, or Space
7 Force or captain in the Navy,”.

8 (E) Subsection (e)(2) is amended by striking “or Marine Corps” and all
9 that follows through “Space Force,” and inserting “Marine Corps, or Space Force
10 or vice admiral or admiral in the Navy,”.

11 (F) Subsection (f) is amended —

12 (i) in paragraph (3)—

13 (I) in subparagraph (A), by striking “or Marine Corps” and
14 all that follows through “Space Force,” and inserting “Marine
15 Corps, or Space Force or rear admiral in the Navy”; and

16 (II) in subparagraph (B), by striking ““or Marine Corps”
17 and all that follows through “Space Force” and inserting “Marine
18 Corps, or Space Force or vice admiral or admiral in the Navy”; and

19 (ii) in paragraph (6)—

20 (I) in subparagraph (A), by striking “or Marine Corps” and
21 all that follows through “Space Force,” and inserting “Marine
22 Corps, or Space Force or rear admiral in the Navy”; and

23 (II) in subparagraph (B), by striking “or Marine Corps” and
24 all that follows through “Space Force,” and inserting “Marine
25 Corps, or Space Force or vice admiral or admiral in the Navy”.

1 (6) HONORARY PROMOTIONS.—Sections 1563(c)(1) and 1563a(a)(1) are each
2 amended—

3 (A) by striking “general,” and inserting “general or”; and

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

5 (7) AIR FORCE INSPECTOR GENERAL.—Section 9020(a) is amended by striking “the
6 general, flag, or equivalent officers of”.

7 (b) OTHER TITLE 10 AMENDMENTS.—Such title is further amended as follows:

8 (1) LIMITATION ON NUMBER OF RETIRED MEMBERS ORDERED TO ACTIVE DUTY.—
9 Section 690(a) is amended by striking “or Marine Corps,” and inserting “Marine Corps,
10 or Space Force,”.

11 (2) THE UNIFORM.—Section 772(i) is amended—

12 (A) by striking “an Air Force School” and inserting “an Air Force or
13 Space Force school”; and

14 (B) by striking “aviation badges of the Air Force” and inserting “aviation
15 or space badges of the Air Force or Space Force”.

16 (3) MEMBERSHIP IN MILITARY UNIONS, ORGANIZING OF MILITARY UNIONS, AND
17 RECOGNITION OF MILITARY UNIONS PROHIBITED.—Section 976(a) is amended by inserting
18 “or the Space Force” in paragraph (1)(C) after “member of a Reserve component”.

19 (4) LIMITATION ON ENLISTED AIDES.—Section 981 is amended—

20 (A) in subsection (a), by striking “Marine Corps, Air Force,” and inserting
21 “Air Force, Marine Corps, Space Force,”;

22 (B) in subsection (b), by striking “and Marine Corps” and inserting
23 “Marine Corps, and Space Force”; and

24 (C) in subsection (c)(1), by inserting “Space Force,” after “Marine
25 Corps,”.

1 (5) DEFINITION OF VETERAN FOR PURPOSES OF FUNERAL HONORS.—Section
2 1491(h)(1) is amended by striking “or air service” and inserting “air, or space service”.

3 (6) HOUSING FOR RECRUITS.—Section 9419(d) is amended by inserting “or the
4 Space Force” after “training program of the Air Force”.

5 (7) CHARTER OF CHIEF OF SPACE OPERATIONS.— Section 9082 is amended as
6 follows:

7 (A) CROSS-REFERENCE CORRECTION.—Subsection (d)(5) is amended by
8 striking “sections” and all that follows through “of law” and inserting “sections
9 171 and 3104 of this title and other provisions of law”.

10 (B) ELAPSED-TIME PROVISION.—Subsection (e)(1) is amended by striking
11 “Commencing” and all that follows through “the Chief” and inserting “The
12 Chief”.

13 **SEC. 1752. OTHER PROVISIONS OF LAW.**

14 (a) TRADE ACT OF 1974.—Section 233(i)(1) of the Trade Act of 1974 (19 U.S.C.
15 2293(i)(1)) is amended by inserting “, or a member of the Space Force,” after “a member of a
16 reserve component of the Armed Forces”.

17 (b) TITLE 28, UNITED STATES CODE (JUDICIARY AND JUDICIAL PROCEDURE).—Section
18 631(c) of title 28, United States Code is amended by inserting “members of the Space Force”
19 after “Coast Guard” the second place it appears.

20 (c) SERVICEMEMBERS CIVIL RELIEF ACT.—The Servicemembers Civil Relief Act (50
21 U.S.C. 3901 et seq.) is amended as follows:

22 (1) DEFINITION OF MILITARY SERVICE.—Section 101(2)(A) (50 U.S.C.
23 3911(2)(A)) is amended by inserting “Space Force,” after “Marine Corps,”.

1 (2) SAME RIGHTS AND PROTECTIONS AS RESERVES ORDERED TO REPORT FOR
2 MILITARY SERVICE.—Section 106 (50 U.S.C. 3917) is amended by adding at the end the
3 following new subsection:

4 “(c) The provisions of subsection (a) apply to a member of the Space Force who is
5 ordered to report for military service in the same manner as to a member of a reserve component
6 who is ordered to report for military service.”.

7 (3) EXERCISE OF RIGHTS UNDER SCRA.—Section 108(5) (50 U.S.C. 3919(5)) is
8 amended by inserting before the period at the end the following: “or as a member of the
9 Space Force”.

[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

This legislative proposal establishes the essential framework for a more fluid Space Force personnel management system that will allow talented, highly skilled Guardians to be developed on an individual basis, promoted based on their competency, and move on and off sustained active service in a way that accommodates both mission requirements and personal considerations.

A version of this proposal was submitted for consideration for the FY2023 NDAA. Based on comments, questions, and feedback, the current proposal has been significantly restructured. The proposal makes significant changes to the transition provisions governing how the proposal will be implemented. But the substantive personnel policy provisions have not been significantly modified.

The legislative proposal is intended to be included in the NDAA for FY 2024 as “Title XVII – Military Personnel System for the Space Force.” Section 1701 establishes the short title as the “Space Force Personnel Management Act” and section 1702 provides the table of contents for the title. Subtitle A (§1711 – §1720) of the legislative proposal, titled “Space Force Military Personnel System without Component,” consists of several new substantive provisions of law to be added to Title 10, while Subtitle B (§1731 – §1733) would make conforming amendments to sections of existing law in Title 10 related to the Space Force military personnel system. Subtitle C (§1741 - §1747) includes provisions related to the Space Force’s transition to the new personnel system. And Subtitle D (§1751 and §1752) makes conforming amendments to other sections both within Title 10 as well as in other relevant titles of the U.S. Code.

Subtitle A—SPACE FORCE MILITARY PERSONNEL SYSTEM

WITHOUT COMPONENT

SEC. 1711. ESTABLISHMENT OF MILITARY PERSONNEL MANAGEMENT SYSTEM

FOR THE SPACE FORCE

This section of the legislative proposal would amend Title 10 by adding a new Subtitle F – Alternative Military Personnel Systems, and further adding, within the new Subtitle F, Part I – Space Force. The section then adds the table of contents for the new subtitle and then chapter 2001 – Space Force Personnel System. Finally, section 1711 adds a new section, §20001, which states that all members of the Space Force “shall be managed through a single military personnel management system, without component.”

SEC. 1712. COMPOSITION OF THE SPACE FORCE WITHOUT COMPONENT.

This section amends section 9081 of title 10 by removing “the Regular Space Force” as a component of the Space Force and making it clear that the Space Force is composed of “all persons appointed or enlisted in, or conscripted into, the Space Force” without distinguishing between those that are serving on full-time active duty and those that are not. It also establishes that the amendment is effective on the date, per section 1745 of the act, that the Secretary of the Air Force certifies to the congressional defense committees that there are no longer any members of the Regular Space Force.

SEC. 1713. DEFINITIONS FOR SINGLE PERSONNEL MANAGEMENT SYSTEM FOR THE SPACE FORCE.

Section 1713 would amend section 101 of title 10 by adding definitions for four new terms that are critical for the new personnel management system established in the proposal. Existing definitions in section 101 are adequate for the current regular and reserve component structure, but the space force without component requires new terms for the various ways that Guardians may serve. Three of the new terms are new duty statuses applicable only to the space force. These include: space force active status, space force inactive status, and space force retired status. The fourth new term is “sustained duty,” which is a new type of active duty available only for the Space Force. Members of the Space Force on sustained duty orders are analogous to how members serve in a regular component. Space Force officers with an obligation to serve on active duty will serve on sustained duty orders while fulfilling that obligation and may continue to serve on sustained duty once their service obligation has been fulfilled. Similarly, enlisted members who indicate in their enlistment agreement that they want to serve on active duty will be placed on sustained duty orders for the period of their agreement.

This section also amends the definitions of “active duty” and “inactive-duty training” in section 101(d) by including sustained duty in the Space Force as a part of the definition of active duty and by clarifying that members of the Space Force may also be prescribed to complete inactive-duty training.

SEC. 1714. BASIC POLICIES RELATING TO SERVICE IN THE SPACE FORCE.

This section would add §§20002 and 20003 to Part I of Subtitle F. The first section would require the Secretary of the Air Force to place each member of the Space Force into one of three new space force specific duty statuses: space force active status, space force inactive status, or space force retired status. *Space force active status*, as the name implies, pertains to members who actively participate in missions assigned to the Space Force. It includes members who are on sustained duty (comparable to members of a regular component) and members who participate at the level generally comparable to that of traditional drilling reservists. A member in a *space force inactive status* does not participate in supporting Space Force missions but may volunteer to serve on active duty and remains subject to an involuntary call up under the applicable authorities specified in chapter 1209 of Title 10. A member is in a *space force retired status* if qualified for a regular retirement with an immediate annuity having completed 20 years of active duty or a non-regular retirement having completed 20 qualifying years of service.

Section 20003 clarifies that the minimum service requirement provisions of section 651 of title 10 apply to new members of the Space Force, except for those portions that relate to service in a reserve component. The section further clarifies that, if a member of the Space Force decides to transfer to another armed force before they have completed their minimum service obligation in accordance with subsection (a) of section 651, then they will be subject to the requirements of section 651 in the same way as if they had initially entered the service to which they are transferring.

SEC. 1715. STATUS AND PARTICIPATION

The section of legislative proposal would add a Chapter 2003 – Status and Participation and its nine sections. Chapter 2003 would set minimum participation levels needed for Space Force officers to remain in an active status and, similar to current reserve components, it authorizes the Secretary of the Air Force to establish these minimums for enlisted personnel. It also establishes the category of Individual Ready Guardian for members of the Space force and it provides the authorities for the Secretary of the Air Force to order members to active duty, variously with and without the consent of the member, depending on which of the three space force statuses a member is serving in when ordered to active duty.

Status and Orders to Active Duty

§20101 – Prescribes the minimum annual training required for a member of the Space force in a space force active status not on sustained duty. Those training requirements are the same as those applicable to a member of the Ready Reserve of a Reserve Component: 48 scheduled drill periods and 14 days of active duty, or 30 days of active duty for training each year.

§20102 – Chapter 1005 in Title 10 specifies the Individual Ready Reserve as a category within the Ready Reserve. To provide a comparable level of readiness in the Space force, §20102 of the legislative proposal defines a category of Individual Ready Guardians. Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may designate members of the Space force serving in a space force active status as Individual Ready Guardians. This will provide flexibility to the Space Force so that they can maintain a connection to these individuals with necessary skills and experience while also providing these members a more flexible way to continue their participation in the Space force. In §20102, authorities pertaining

to the continuous screening of Individual Ready Reservists are deemed to apply to Individual Ready Guardians.

§20103 – The text of §20103 would authorize the Secretary of the Air Force to enter into written agreements with members of the Space Force for the purpose of specifying conditions of service and mobilization. These agreements would be available to members serving in any status, except those on sustained duty, and could specify conditions for service on active duty for a definite period of time, similar to Active Guard Reserve service, or, for members in a space force inactive status, could specify conditions under which such members could participate in training and would consent to involuntary mobilization. The section would require the Secretary of the Air Force to prescribe how such agreements may be utilized in regulations.

§20104 – Chapter 1209 of Title 10 establishes the various authorities by which members of a Reserve component may be ordered to active duty. These authorities will also apply to Space Force members who are not serving on sustained duty. This is made clear in §20104 of the legislative proposal, which specifies those sections of chapter 1209 that are available to order a member of the Space Force to active duty with their consent and also specifies that the force management provisions contained in Chapter 1209 will apply to members of the Space Force who are ordered to active duty in the same way that they apply to a member of a reserve component ordered to active duty under the same authority.

§20105 – The authority established in §20105 is unique to the Space Force. There are no provisions currently in title 10 that are used to order an enlisted member or an officer on to active duty to serve in a regular component. They are not necessary because service on active duty is presumed for an enlistment or appointment in a regular component. Neither Chapter 31 (enlistments in regular components) or Chapter 33 (original appointments of officers in regular components) mention how an enlisted member or an officer are brought on to active duty with the regular component because it simply is not necessary. But in the Space Force without component, there will need to be a way to distinguish between enlisted members and officers who are not serving on active duty, or who are serving on active duty for a defined period of time, and those who are serving on active duty to fulfill the terms of an enlistment agreement or a commissioning agreement, or who have completed their service obligation but who voluntarily intend to continue serving on active duty in the Space Force. There needs to be an analogue for enlisted members and officers serving in a regular component. Accordingly, §20105 in the legislative proposal allows the Secretary of the Air Force, or their designee, to order enlisted members on to sustained duty with their consent as specified in the terms of their enlistment or reenlistment agreement. It also permits the Secretary to order officers to sustained duty, with their consent or to fulfill the terms of an active-duty service commitment.

§20106 – Members of the Space Force not on sustained duty orders may be ordered to active duty without their consent in accordance with §20106. This section provides that a member of the Space Force may be ordered to active duty or inactive duty without their consent in the same manner as a member of a reserve component may be ordered to active duty or inactive duty under the provisions of chapter 1209 of title 10. This section includes cross-references to particular sections in Subtitles A and E that govern how members in an inactive status, or a retired status, may be ordered to active duty without their consent.

§20107 – Would require the transfer of a member terminating active duty or service in a space force active status, who has not completed the required minimum service obligation, to a

space force inactive status. A member in a space force inactive status may be transferred to active duty, without the consent of the member, as provided in the preceding section (§10209).

§20108 – Would ensure that a member of the Space Force, and their dependents and beneficiaries, receive the same pay and benefits as a member of the Air Force serving in a similar status. Sustained duty is considered the same as active duty in a regular component. Active duty, that is not sustained duty, or inactive-duty training, in the Space Force is considered to be the same as active duty or inactive-duty training, by a member of a reserve component.

§20109 – Provides for the general availability of Space Forces, comparable to the provisions of §10103 and §651 of Title 10, but worded so as to conform to the Space Force without component.

SEC. 1716. OFFICERS

The legislative proposal would add a Chapter 2005 – Officers, with five subchapters, focused on officer appointments, selection boards, promotions, persons not considered for promotion and other promotion-related provisions, and applicability of other laws.

Appointments

§20201 - The proposal provides that the Secretary of Defense shall make original appointments in the Space Force for officers below the grade of brigadier general and the section further provides that the grade of an officer receiving constructive credit will be determined under regulations prescribed by the Secretary of Defense.

§20202 - Regarding qualifications for original appointment of officers, this chapter draws from the provisions of §532 (regular officers) and §12201 (reserve officers) of Title 10. Where the regular and reserve qualification requirements differ, the legislative proposal adopts the language pertinent to reserve officers, providing additional discretion to the Secretary of the Air Force. However, because of the specialized and sensitive nature of space operations, all Space Force officer career fields require a security clearance. Therefore, §20202 of the proposal requires that a person must be a citizen of the United States to be appointed as an officer in the Space Force.

§20203 - With respect to service credit, the legislative proposal draws from the provisions of §533 and §12207 of Title 10. It eliminates provisions related to medical officers, dental officers, and judge advocates—officer career fields that are not represented in the Space Force. It adds provisions for service credit based on civilian experience in a federal agency in occupations related to Space force requirements. And, notably, the proposal would authorize the Secretary of the Air Force to award constructive service credit for all advanced education, training, and specialized experience even if such education, training, and experience occurs concurrently.

Selection Boards

§20211 – Authorizes the Secretary of the Air Force to establish selection boards to recommend officers for promotion. It permits an exception for first lieutenants when the Secretary recommends all fully qualified first lieutenants for promotion to the grade of captain.

The section also authorizes the Secretary to convene selection boards to recommend officers for early retirement or for discharge in accordance with §20403.

§20212 – Establishes the composition of selection boards, stating that to the extent possible, the ratio of selection board members serving on sustained duty to those not on sustained duty shall reflect the ratio of officers being considered for promotion by the board. The section states that, in the event that a sufficient number of qualified officers is not available to convene a selection board, the Secretary will appoint retired Space Force officers and, if there are insufficient retired Space Force officers, retired Air Force officers who have served in the Space Force or in space-related career fields for sufficient time that they have adequate knowledge concerning the standards of performance and conduct required for Space Force officers. The section further requires that the selection board include at least one joint qualified officer if the board is going to consider any officers that are joint qualified or are currently serving on the joint staff. Finally, the section states that no officer may serve on two successive selection boards that are considering officers of the same grade but provides an exception for selection boards that are considering officers in the grade of colonel or brigadier general.

§20213 – Requires the Secretary of the Air Force to provide at least 30 days notice to officers who are eligible for consideration before convening a selection board. Further requires the Secretary to inform eligible officers of how many times they have been previously considered for promotion. The section authorizes officers to provide written communication to the board of any matter they wish the board to consider. And the section requires colonels and brigadier generals who receive a notice to provide the Secretary of their preference to serve either on or off active duty if promoted.

§20214, §20215 – These sections establish the procedures for the recommendations and reports of selection boards.

§20216 – This section allows the Secretary of the Air Force to vary from the sequence recommended by a promotion board in promoting officers in the grades of colonel and brigadier general. Due to the small number of general officer positions within the Space Force, promotions to brigadier general and major general must be carefully monitored to ensure the appropriate number of qualified officers that willing to serve either on active duty or not depending on the position. This is why §20213 requires officers that are being considered for promotion to brigadier general or major general to inform the Secretary of their preference to serve on active duty or not. These provisions are necessary to allow the Secretary to optimize the mix of competencies and participation levels among the serving general officers.

Promotions

§20231 – This section establishes promotion eligibility criteria for Space Force officers. Time-in-grade requirements mirror existing criteria in section 619 of title 10. The section authorizes the Secretary of the Air Force to preclude from consideration for one year an officer who moves on or off sustained duty orders as well as officers who have an approved separation date within 90-days of the date the board is to convene. The section also establishes the categories of officers that may not be considered by a board, including officers excluded from consideration based on a request to the Secretary and the Secretary's determination that exclusion is in the best interests of the Space Force.

§20232 – Allows the commanding general of a Space Force Field Command to nominate officers under their command, who would not otherwise be eligible for consideration, to be considered for promotion by a selection board. The Secretary of the Air Force would be authorized to prescribe regulations permitting a selection board to consider officers who would not otherwise be permitted to be considered either because they do not meet the time-in-grade requirements or because they have already been considered the maximum number of times as determined by the Secretary. The regulations prescribed by the Secretary of the Air Force will include very specific guidance and objective standards for such nominations in order to reduce the potential for actual or perceived bias in the nomination process

§20233 – Space Force officers will be required to be designated as a joint qualified officer under section 661 of title 10 in order to be promoted to brigadier general. However, this requirement has not been applicable to Air Force Reserve officers and, therefore, the legislative proposal exempts field grade officers who transfer into the Space Force from a reserve component. This section also authorizes the Secretary of Defense to waive this requirement for space force officers who have been selected for promotion to brigadier general and have completed all of the educational requirements to be designated a joint qualified officer but have not had the opportunity to complete the experience requirements.

§20234 – Requires the Secretary of the Air Force to specify the number of opportunities, between 2 and 5, that Space Force officers will have to be considered for promotion to each grade above the grade of captain.

§20235 – Establishes that there will be a single list of all Space Force officers serving in a space force active status and that the list will be known as the space force officer's list.

§20236 – The Secretary of the Air Force is required to establish at least one competitive category for promotion of officers on the space force officer list and there shall be one competitive category for all officers being considered for promotion to brigadier general or major general.

§20237 – The Secretary of the Air Force shall determine the maximum number of officers that a selection board may recommend for promotion based on determinations of: (1) the number of positions in the Space Force that should be filled by officers at the grade to which a board will recommend officers for promotion; (2) the number of vacancies in those positions; and (3) the number of officers in a space force active status who are authorized to serve on sustained duty and not on sustained duty at the grade under consideration. This section also requires the Secretary to determine, for selection boards considering officers for promotion to brigadier or major general, the maximum number of officers serving on sustained duty or not serving on sustained duty that may be promoted.

§20238 – This section establishes how promotions are made and the conditions under which promotions could be delayed. The section permits the delay in a promotion of an officer to brigadier general or major general if the promotion would cause any of the strength limitations of section 526 of title 10 to be exceeded. The standards for appointment authorities and senate confirmation requirements parallel those in §624(c) of Title 10, Chapter 36.

Persons not considered for promotion and other promotion-related provisions

§20251 – This section mirrors the authorities and text in section 628 of title 10 regarding special selection boards. The Secretary of the Air Force is authorized to convene special selection boards to determine whether a person should be recommended for promotion.

§20252 – This section clarifies that the provisions in section 628(a)(1) regarding a person “above the promotion zone” and the provisions in part II of subtitle A that refer to the effect of twice failing of selection for promotion do not apply to promotions within the Space Force.

Applicability of Other Laws

§20261 – This section makes it clear that the provisions related to promotions in Chapter 36 of title 10 apply to Space Force officers and officer promotions except as modified or provided for by this chapter. The section specifically amends section 605 of title 10 by inserting specific numbers of how many Space Force officers may be promoted under the temporary promotion authority for officers with critical skills.

SEC. 1717. ENLISTED MEMBERS

The legislative proposal would add a Chapter 2007 – Enlisted Members.

§20301 – authorizes the Secretary to accept original enlistments of qualified, effective, and able-bodied persons.

§20302 – Establishes that the term of original enlistments in the Space Force will be between two and eight years.

§20303 – This section is a cross-reference to the provisions in Chapter 31 that are applicable to enlistments in the Space Force. Those particular sections in Chapter 31 have been amended through conforming amendments to include the Space Force so this section merely points readers to other applicable provisions of the US Code.

Subsection (b) of section 1717 includes specific amendments to Chapter 31 to incorporate the Space Force.

SEC. 1718. SEPARATION GENERALLY

The legislative proposal would add a Chapter 2009 – Retention and Separation Generally.

§20401 – This section explains how particular provisions in Subtitle A related to retention and separation apply to members of the Space Force.

§20402 – Requires the Secretary of the Air Force to establish the standards and qualifications for the retention of enlisted members of the Space Force and the equitable procedures for determining if members are complying with those standards. The section also establishes the effect of failure to comply with the standards as set by the Secretary.

§20403 – This section establishes the standards that a space force officer must meet in order to be retained in an active status. The standard is taken from section 12642 and requires

the Secretary of the Air Force to prescribe the minimum number of points (under section 12732) that an officer must attain each year. The section also requires space force officers to conform to any other such standards and qualifications as the Secretary of the Air Force may prescribe for officers. Finally, the section states that, if an officer fails to comply with these standards then the officer may be referred to a board convened under §20501(a).

§20404 – This section would permit the Secretary to prescribe regulations allowing members to transfer points earned in one year that are in excess to the minimum number prescribed by the Secretary, to either the previous year or to the subsequent year. It is specifically applicable to both officers and enlisted members and recognizes that, for enlisted members, the Secretary prescribes the minimum number of points in regulations.

§20405 – This section authorizes the Secretary of the Air Force to convene selection boards to consider officers for early retirement or discharge from the Space Force. This authority compensates for the elimination of selective continuation boards and the delinking of promotion and retention. When the Secretary determines that the Space Force has too many officers of one grade and competitive category then the Secretary may convene a board under this authority to recommend officers at that grade and in that competitive category for early retirement or discharge.

§20406 – This section authorizes the Secretary of the Air Force to utilize force shaping authority to discharge or involuntary release from sustained duty an officer who has less than six years of commissioned service or has more than six years but less than the officer's minimum service obligation.

SEC. 1719. SEPARATION OF OFFICERS FOR SUBSTANDARD PERFORMANCE OR FOR CERTAIN OTHER REASONS

The legislative proposal would add a Chapter 2011 – Separation of Officers for Substandard Performance or for Certain Other Reasons.

§20501 – This section provides authority to separate Space Force officers for substandard performance and other reasons. It is similar to the authority found in section 1181 of title 10, but this section establishes that one of the reasons for which a Space Force officer's record may be reviewed includes failure to satisfy the standards and qualifications established under §20402 by the Secretary of the Air Force.

§20502 – Provides authorities for the Space Force to establish retention boards to consider the retention of officers in a space force active status in the Space force whose “performance of duty has fallen below standards prescribed by the Secretary of Defense, or (2) because the officer has failed to satisfy the standards and qualifications established under §20402 of this title by the Secretary of the Air Force.” The conduct of the retention board and the effect of a board's recommendations is similar to the provisions for officers in a regular component, however, this section does permit a retention board to recommend, in certain circumstances, that an officer be required to complete additional training, professional education, or other developmental programs designed to correct any identified deficiencies.

§20503, §20504, §20505, §20506 – Section 20503 of the legislative proposal allows for the removal of an officer from the space force active status if recommended by a retention board, similar to the provisions of §1184 of Title 10 for removal from active duty. §20504 of this legislative proposal would provide officers facing a retention board the rights and procedures paralleling those in §1185, with a minor amendment to allow for electronic appearances at hearings. §20505 would allow for voluntary retirement or discharge in lieu of retention board proceedings, parallel to §1186. §20506 parallels the provisions of §1187 regarding composition of the board, with minor amendments to conform to the Space Force context.

SEC. 1720. RETIREMENT.

The legislative proposal would add a Chapter 2013 – Retirement.

§20601 – Establishes the authority for a Space Force officer to retire voluntarily based on length of service after twenty, thirty, and forty years. This section consolidates text from three sections in Chapter 941 applicable to regular Air Force officers.

§20602 – Sets forth how to compute years of service for the voluntary retirement of a space force officer.

§20603 – Establishes that an enlisted member of the Space Force with more than twenty but less than thirty years of service may be retired upon their request under regulations prescribed by the Secretary of the Air Force.

§20604 – Similar to §20602, establishes how to compute the years of service for an enlisted member's voluntary retirement.

§20605 – This section provides that particular provisions related to retirement in Subtitle A and Subtitle E are also applicable to the Space Force. The section establishes how those sections will apply to members of the Space Force in different duty statuses or on sustained duty.

Subsection (c) of section 1720 adds conforming amendments to certain sections within Title 10 that are related to retirements and retired members.

Subtitle B – CONFORMING AMENDMENTS RELATED TO SPACE FORCE MILITARY PERSONNEL SYSTEM

SEC. 1731. AMENDMENTS TO DEPARTMENT OF THE AIR FORCE PROVISIONS OF TITLE 10, UNITED STATES CODE

This section of the legislative proposal includes amendments to the Department of the Air Force provisions found in Subtitle D of Title 10 that are necessary for the implementation of the new space force military personnel system.

SEC. 1732. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

This section of the legislative proposal includes amendments to other sections of Title 10 that are necessary for the implementation of the new space force military personnel system.

SEC. 1733. TITLE 38, UNITED STATES CODE (VETERANS' BENEFITS)

This section of the legislative proposal includes amendments to Title 38 that are necessary for the implementation of the new space force military personnel system.

SEC. 1734. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Subsection (a) and (b) of this section of the legislative proposal would make conforming amendments to sections 202 and 209 of title 18 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 that 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. 1735. CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Section 1735 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.

Subtitle C – TRANSITION PROVISIONS

SEC. 1741. TRANSITION PERIOD

This section establishes that the term "transition period" means the date beginning on the date of enactment and ending on the last day of the fourth fiscal year beginning after enactment of the Act.

SEC. 1742. CHANGE OF DUTY STATUS OF MEMBERS OF THE SPACE FORCE

This section requires the Secretary of the Air force to change the duty status of each member of the Regular Space Force to space force active status and at the same time, place each member on sustained duty orders under §20105.

SEC. 1743. TRANSFER TO THE SPACE FORCE OF MEMBERS OF THE AIR FORCE

RESERVE SERVING IN SPACE CAREER FIELD POSITIONS

The Secretary of the Air Force may transfer a covered officer or enlisted member of the

Air Force Reserve into the Space Force with their consent. This section also permits the Secretary to accept enlistments for less than two years in those instances where an enlisted member wants to transfer but does not yet want to reenlist or is within two years of retirement. These transfers are to be carried out in accordance with regulations prescribed by the Secretary of Defense under section 716 of title 10. For the purposes of these transfers, the Air Force Reserve and the Space Force are to be considered components of the same Armed Force and the space force officer list shall be considered to be an active-duty list of an Armed Force. This will enable the transfer to process more smoothly in accordance with section 531 of title 10 and the Department of Defense regulations concerning inter-component transfers. The section also permits the Secretary to increase the end strength of the Space Force and decrease the end strength of the Air Force Reserve by a number equal to the number of positions assigned to an Air Force Reserve mission that is transferred to the Space Force. Finally, the section establishes that the term “covered member” means a member of the Air Force reserve who, as of the date of enactment of this act, is serving in position designated by the Secretary as a Space Force career-field position.

SEC. 1744. PLACEMENT OF OFFICERS ON THE SPACE FORCE OFFICER LIST.

This section merely states that the Regular Space Force and Air Force Reserve officers who are now being merged together will be placed on the space force officers list based on their respective grades and dates of rank and, for officers with the same grade and date of rank, in accordance with Department of Defense regulations.

SEC. 1745. DISESTABLISHMENT OF REGULAR SPACE FORCE

The Secretary of the Air Force shall disestablish the Regular Space Force once all members of the Regular Space Force have changed their duty status, been placed on sustained duty orders, and the Secretary of the Air Force has certified to the congressional defense committees that there are no longer any members of the Regular Space Force. This section also requires the Secretary to publish a notice of the disestablishment of the Regular Space Force in the Federal Register. Finally, the section repeals section 9085 of title 10 relating to the composition of the Regular Space Force.

SEC. 1746. END STRENGTH FLEXIBILITY.

This section authorizes the Secretary of the Air Force to vary the end strength of the Space Force either 5% over or 10% below the end strength authorized by Congress for a fiscal year. The section further authorizes temporary exemptions from the end strength grade restrictions in sections 517 and 523 of title 10.

SEC. 1747. PROMOTION AUTHORITY FLEXIBILITY

To allow time for the Space Force to develop the appropriate policies and systems, the legislative proposal would allow the Secretary of the Air Force to use the existing promotion procedures under the provisions of Chapters 36 and 1405 of Title 10 during the transition period until the Space Force has finalized regulations and put in place any necessary systems to fully implement the new officer promotion procedures in Chapter 2005.

Subtitle D – OTHER AMENDMENTS RELATED TO THE SPACE FORCE

SEC. 1751. TITLE 10, UNITED STATES CODE

This section contains other amendments to Title 10 that are related to the Space Force, but not directly related to the space force military personnel system.

SEC. 1752. OTHER PROVISIONS OF LAW

This section includes conforming amendments to other, non-positive, provisions of law that are necessary to implement the space force military personnel system. These include: (1) the Trade Act of 1974 codified in section 2293 of title 19, United States Code; Section 631(c) of title 28, United States Code; and the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.).

Resource Information:

The table below reflects the best estimate of fiscal year resources adjustments that may occur with transfer of members, missions, functions, or work of the Air Force Reserve to the Space Force.

	RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Total (FY24-FY28)	Appropriation	Budget Activity	BLI/SAG	PE (for all RDT&E pgms)
Space Force	\$24.7	\$47.5	\$97.7	\$107.4	\$109.7		MILPERS 3510		Multiple	N/A
	\$2.0	\$4.1	\$8.6	\$9.0	\$9.5		MERHC 1007		Multiple	N/A
Total	\$26.7	\$51.6	\$106.3	\$116.4	\$119.2	\$420.1				N/A
Regular Air Force	-\$6.0	-\$9.4	-\$19.8	-\$27.6	-\$28.9	-\$91.6	MILPERS 3500		Multiple	N/A
Air Force Reserve	-\$18.7	-\$38.1	-\$77.9	-\$79.8	-\$80.8		MILPERS 3700		Multiple	N/A
	-\$2.0	-\$4.1	-\$8.6	-\$9.0	-\$9.5		MERHC 1008		Multiple	N/A
AFR Total	-\$20.7	-\$42.2	-\$86.5	-\$88.8	-\$90.3	-\$328.5				N/A
Total	0	0	0	0	0					

Note: *The above numbers do not reflect the conversion of Regular Space Force personnel into the Space force. They reflect current estimates for the resource impact of the implementation of the new Space Force Personnel Management system and of the Space Force without component and are subject to change through the FY2024 budget process. Resource impact to the Regular Air Force reflect fiscal year adjustments to Regular Air Force resources for Active Duty Operational Support (ADOS) Military Personnel Appropriation (MPA) man-days which are funded out of the Regular Air Force military personnel appropriation account.*

Changes to Existing Law: This proposal would make changes to the text of existing laws as follows:

TITLE 10, UNITED STATES CODE

Subtitle	Sec.
A. General Military Law.....	101
B. Army.....	7001
C. Navy and Marine Corps.....	8001
D. Air Force and Space Force.....	9011
E. Reserve Components.....	10001
F. Alternative Military Personnel Systems.....	20001

Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 1—DEFINITIONS, RULES OF CONSTRUCTION, CROSS REFERENCES, AND RELATED MATTERS

§101. Definitions

(a) ***

(b) PERSONNEL GENERALLY.—The following definitions relating to military personnel apply in this title:

- (1) The term “officer” means a commissioned or warrant officer.
- (2) The term “commissioned officer” includes a commissioned warrant officer.
- (3) The term “warrant officer” means a person who holds a commission or warrant in a warrant officer grade.
- (4) The term “general officer” means an officer of the Army, Air Force, ~~or~~ Marine Corps, or Space Force serving in or having the grade of general, lieutenant general, major general, or brigadier general.

(10) The term “original”, with respect to the appointment of a member of the armed forces in a regular or reserve component, refers to that member’s most recent appointment in that component that is neither a promotion nor a demotion and, with respect to the appointment of a member of the armed forces in the Space Force, refers to that member’s most recent appointment in the Space Force that is neither a promotion nor a demotion.

(c) RESERVE COMPONENTS.—The following definitions relating to the reserve components apply in this title:

(1) ***

(d) DUTY STATUS.—The following definitions relating to duty status apply in this title:

(1) The term “active duty” means full-time duty in the active military service of the United States including sustained duty in the Space Force. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

(2) The term “active duty for a period of more than 30 days” means active duty under a call or order that does not specify a period of 30 days or less.

(3) The term “active service” means service on active duty or full-time National Guard duty.

(4) The term “active status” means the status of a member of a reserve component who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve-

(7) The term “inactive-duty training” means—

(A) duty prescribed for Reserves, or a member of the Space Force, by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves, or a member of the Space Force, by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

(e) SPACE FORCE.—The following definitions relating to members of the Space Force apply in this title:

(1) The term “space force active status” means the status of a member of the Space Force who is not in a space force inactive status and is not retired.

(2) The term “space force inactive status” means the status of a member of the Space Force who is designated by the Secretary of the Air Force, under regulations prescribed by the Secretary, as being in a space force inactive status.

(3) The term “space force retired status” means the status of a member of the Space Force who—

(A) is receiving retired pay; or

(B) but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

(4) The term “sustained duty” means full-time duty by a member of the Space Force ordered to such duty by an authority designated by the Secretary of the Air Force—

(A) in the case of an officer—

(i) to fulfill the terms of an active-duty service commitment incurred by the officer under any provision of law; or

(ii) with the consent of the officer; and
(B) in the case of an enlisted member, with the consent of the enlisted member as specified in the terms of the member's enlistment or reenlistment agreement.

~~(e)~~(f) FACILITIES AND OPERATIONS.—***

~~(f)~~(g) RULES OF CONSTRUCTION.—In this title—

- (1) “shall” is used in an imperative sense;
- (2) “may” is used in a permissive sense;
- (3) “no person may * * *” means that no person is required, authorized, or permitted to do the act prescribed;
- (4) “includes” means “includes but is not limited to”; and
- (5) “spouse” means husband or wife, as the case may be.

~~(g)~~(h) REFERENCE TO TITLE 1 DEFINITIONS.—For other definitions applicable to this title, see sections 1 through 5 of title 1.

CHAPTER 2—DEPARTMENT OF DEFENSE

§115a. Annual defense manpower profile report and related reports

(a) ***

(d) Not later than April 1 each year, the Secretary shall submit to Congress a report that sets forth, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(A) retirements displayed by year of active commissioned service;

(B) discharges;

(C) other separations;

(D) deaths;

(E) promotions; and

(F) reserve and regular officers ordered to active duty or, in the case of the Space Force, officers ordered to active duty other than under section 20105(b) of this title.

(e) ***

CHAPTER 3—GENERAL POWERS AND FUNCTIONS

§123a. Suspension of end-strength and other strength limitations in time of war or national emergency

(a) DURING WAR OR NATIONAL EMERGENCY.—

(1) If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

(2) When a designation of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) is in effect, the President may waive any statutory limit that would otherwise apply during the period of the designation on the number of members of a reserve component or the Space Force who are authorized to be on active duty under subparagraph (A) or (B) of section 115(b)(1) of this title, if the President determines the waiver is necessary to provide assistance in responding to the major disaster or emergency.

CHAPTER 6—COMBATANT COMMANDS

§164. Commanders of combatant commands: assignment; powers and duties

(a) ***

(e) SELECTION OF SUBORDINATE COMMANDERS.—

(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of the combatant command;

and

(B) in accordance with procedures established by the Secretary of Defense.

(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

(3) ***

(4)(A) At least one deputy commander of the combatant command the geographic area of responsibility of which includes the United States ~~shall be a qualified officer of a reserve component of the armed forces who is eligible for promotion to the grade of O-9, unless a reserve component officer is serving as commander of that combatant command.~~ shall be—

(i) a qualified officer of a reserve component who is eligible for promotion to the grade of lieutenant general or, in the case of the Navy, vice admiral; or

(ii) a qualified officer of the Space Force whose prior service includes service in a space force active status other than sustained duty and who is eligible for promotion to the grade of lieutenant general.

(B) The requirement in subparagraph (A) does not apply when the officer serving as commander of the combatant command described in that subparagraph is (i) a reserve component officer, or (ii) an officer of the Space Force whose prior service includes service in a space force active status other than sustained duty.

* * * * *

CHAPTER 23—MISCELLANEOUS STUDIES AND REPORTS

* * * * *

§482. Readiness reports

(a) REPORTS AND BRIEFINGS.—(1) Not later than 30 days after the end of the second and fourth quarter of each calendar year, the Secretary of Defense shall submit to Congress a report regarding the military readiness of the active and reserve components and the Space Force. The Secretary of Defense shall submit each such report in writing and shall also submit a copy of each such report to the Chairman of the Joint Chiefs of Staff.

(2) Not later than 30 days after the end of the first and third quarter of each calendar year, the Secretary of Defense shall provide to Congress a briefing regarding the military readiness of the active and reserve components and the Space Force.

(3) ***

(b) ***

* * * * *

PART II—PERSONNEL

* * * * *

CHAPTER 31—ENLISTMENTS

* * * * *

§503. Enlistments: recruiting campaigns; compilation of directory information

(a) RECRUITING CAMPAIGNS.—(1) The Secretary concerned shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, and Regular Coast Guard and the Space Force.

(2) ***

* * * * *

§505. Regular components: qualifications, term, grade

(a) The Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than seventeen years of age nor more than forty-two years of age. However, no person under eighteen

years of age may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control.

(b) A person is enlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Regular Space Force, ~~Regular Space Force~~, or Regular Coast Guard in the grade or rating prescribed by the Secretary concerned.

(c) The Secretary concerned may accept original enlistments of persons for the duration of their minority or for a period of at least two but not more than eight years, in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard, as the case may be.

(d)(1) The Secretary concerned may accept a reenlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard, as the case may be, for a period determined under this subsection.

(2) In the case of a member who has less than 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the period for which the member reenlists shall be at least two years but not more than eight years.

(3) In the case of a member who has at least 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the Secretary concerned may accept a reenlistment for either—

(A) a specified period of at least two years but not more than eight years; or

(B) an unspecified period.

(4) No enlisted member is entitled to be reenlisted for a period that would expire before the end of the member's current enlistment.

(e) ENLISTMENTS IN THE SPACE FORCE.—For enlistments in the Space Force, see sections 20301 and 20302 of this title.

§506. Regular components: extension of enlistments during war

An enlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard in effect at the beginning of a war, or entered into during a war, unless sooner terminated by the President, continues in effect until six months after the termination of that war.

* * * * *

§508. Reenlistment: qualifications

(a) ***

(b) A person discharged from a Regular component may be reenlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard, as the case may be, under such regulations as the Secretary concerned may prescribe.

(c) This section does not deprive a person of any right to be reenlisted in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, ~~Regular Space Force~~, or Regular Coast Guard under any other provision of law.

* * * * *

§510. Enlistment incentives for pursuit of skills to facilitate national service

(a) ***

* * * * *

(c) NATIONAL SERVICE.—The total period of national service to which a National Call to Service participant is obligated under the agreement under this section shall be specified in the agreement. Under the agreement, the participant shall—

(1) upon completion of initial entry training (as prescribed by the Secretary of Defense), serve on active duty in a military occupational specialty designated by the Secretary of Defense under subsection (d) for a period of 15 months;

(2) upon completion of the period of active duty specified in paragraph (1) and without a break in service, serve either (A) an additional period of active duty as determined by the Secretary of Defense, or (B) a period of 24 months in an active status in the Selected Reserve or the Space Force; and

(3) upon completion of the period of service specified in paragraph (2), and without a break in service, serve the remaining period of obligated service specified in the agreement—

(A) on active duty in the armed forces;

(B) in the Selected Reserve;

(C) in the Individual Ready Reserve;

(D) in the Space Force;

~~(D)~~(E) in Americorps or another domestic national service program jointly designated by the Secretary of Defense and the head of such program for purposes of this section; or

~~(E)~~(F) in any combination of service referred to in subparagraphs (A) through ~~(D)~~(E) that is approved by the Secretary of the military department concerned pursuant to regulations prescribed by the Secretary of Defense and specified in the agreement.

(d) ***

* * * * *

§ 511. College First Program

(a) PROGRAM AUTHORITY.— ***

* * * * *

(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—The Secretary concerned may—

(1) exercise the authority under section 513 of this title—

(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component, or as a member of the Space Force, notwithstanding the scope of the authority under subsection (a) of that section, in the case of the Army National Guard of the United States or Air National Guard of the United States; and

(B) ***

* * * * *

(c) MAXIMUM PERIOD OF DELAY.— ***

* * * * *

§513. Enlistments: Delayed Entry Program

(a) A person with no prior military service who is qualified under section 505 of this title and applicable regulations for enlistment in a regular component of an armed force, or who is qualified under section 20301 of this title and applicable regulations for enlistment in the Space Force, may (except as provided in subsection (c)) be enlisted as a Reserve for service in the

Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, or be enlisted as a member of the Space Force, for a term of not less than six years nor more than eight years.

(b) ***

* * * * *

§516. Effect upon enlisted status of acceptance of appointment as cadet or midshipman

(a) The enlistment or period of obligated service of an enlisted member of the armed forces who accepts an appointment as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy or in the Navy Reserve, may not be terminated because of the acceptance of that appointment. However, while serving as a cadet or midshipman at an Academy, he is entitled only to the pay, allowances, compensation, pensions, and other benefits provided by law for such a cadet or midshipman or, if he is a midshipman in the Navy Reserve, to the compensation and emoluments of a midshipman in the Navy Reserve.

(b) If a person covered by subsection (a) is separated from service as a cadet or midshipman, or from service as a midshipman in the Navy Reserve, for any reason other than his appointment as a commissioned officer of a regular or reserve component of an armed force or in the Space Force, or because of a physical disability, he resumes his enlisted status and shall complete the period of service for which he was enlisted or for which he has an obligation, unless he is sooner discharged. In computing the unexpired part of an enlistment or period of obligated service for the purposes of this subsection, all service as a cadet or midshipman is counted as service under that enlistment or period of obligated service.

* * * * *

CHAPTER 33—ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES

* * * * *

§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, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, ~~and in the equivalent grades in the Regular 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, and Regular Marine Corps and in the grades of lieutenant commander, commander, and captain in the Regular Navy, ~~and in the equivalent grades in the Regular Space Force~~ shall be made by the President, by and with the advice and consent of the Senate.

(3) Original appointments in the grades of second lieutenant through colonel in the Space Force are provided for under section 20301 of this title.

(b) ***

(c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps, ~~or Regular Space Force~~ may be made by the Secretary of Defense in the case of a reserve commissioned officer upon the transfer of such officer from the reserve

active-status list of a reserve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).

§532. Qualifications for original appointment as a commissioned officer

(a) Under regulations prescribed by the Secretary of Defense, an original appointment as a commissioned officer (other than as a commissioned warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ may be given only to a person who—

- (1) is a citizen of the United States;
- (2) is of good moral character;
- (3) is physically qualified for active service; and
- (4) has such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

(b) ***

* * * * *

§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, or Regular Marine Corps, ~~or Regular 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.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, ~~and Space Force~~, to authorize the Secretary of the military department concerned to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

(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, or Regular Marine Corps, ~~or Regular Space Force~~ and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

(2) ***

* * * * *

(f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ shall—

- (1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and
- (2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date

of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.

* * * * *

CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

* * * * *

§601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

(a) ***

* * * * *

(e) Prior to making a recommendation to the Secretary of Defense for the nomination of an officer for appointment to a position of importance and responsibility under this section, which appointment would result in the initial appointment of the officer concerned in 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, ~~or the commensurate grades in the Space Force~~, the Secretary concerned shall consider all officers determined to be among the best qualified for such position.

* * * * *

§605. Promotion to certain grades for officers with critical skills: colonel, lieutenant colonel, major, captain; captain, commander, lieutenant commander, lieutenant

(a) IN GENERAL.—An officer in the grade of first lieutenant, captain, major, or lieutenant colonel in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or lieutenant (junior grade), lieutenant, lieutenant commander, or commander in the Navy, who is described in subsection (b) may be temporarily promoted to the grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable, under regulations prescribed by the Secretary of the military department concerned. Appointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) COVERED OFFICERS.—An officer described in this subsection is any officer in a grade specified in subsection (a) who—

(1) has a skill in which the armed force concerned has a critical shortage of personnel (as determined by the Secretary of the military department concerned); and

(2) is serving in a position (as determined by the Secretary of the military department concerned) that—

(A) is designated to be held by a captain, major, lieutenant colonel, or colonel in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable; and

(B) requires that an officer serving in such position have the skill possessed by such officer.

(c) PRESERVATION OF POSITION AND STATUS OF OFFICERS APPOINTED.—***

(d) BOARD RECOMMENDATION REQUIRED.—***

(e) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—***

(f) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy; or

(2) on the date the officer is detached from a position described in subsection (b)(2), unless the officer is on a promotion list to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, ~~or~~ Marine Corps, or Space Force, or lieutenant, lieutenant commander, commander, or captain in the Navy, in which case the appointment terminates on the date the officer is promoted to that grade.

(g) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated by the Secretary of the military department concerned for the purposes of this section. The number of positions so designated may not exceed the following:

(1) In the case of the Army—

(A) as captain, 120;

(B) as major, 350;

(C) as lieutenant colonel, 200; and

(D) as colonel, 100.

~~(2) In the case of the Air Force—~~

~~(A) as captain, 100;~~

~~(B) as major, 325;~~

~~(C) as lieutenant colonel, 175; and~~

~~(D) as colonel, 80.~~

(2) In the case of the Air Force—

(A) as captain, 95;

(B) as major, 305;

(C) as lieutenant colonel, 165; and

(D) as colonel, 75.

(3) In the case of the Space Force—

(A) as captain, 5;

(B) as major, 20;

(C) as lieutenant colonel, 10; and

(D) as colonel, 5.

~~(3)~~ (4) In the case of the Marine Corps—

(A) as captain, 50;

(B) as major, 175;

(C) as lieutenant colonel, 100; and

(D) as colonel, 50.

~~(4)~~ (5) In the case of the Navy—

(A) as lieutenant, 100;

(B) as lieutenant commander, 325;

(C) as commander, 175; and

(D) as captain, 80.

CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

* * * * *

SUBCHAPTER I—SELECTION BOARDS

* * * * *

§613a. Nondisclosure of board proceedings

(a) PROHIBITION ON DISCLOSURE.—The proceedings of a selection board convened under section 573, 611, ~~or 628~~, or 20211 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.

(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, NOTES, AND RECORDS.—

(c) APPLICABILITY.—This section applies to all selection boards convened under section 573, 611, ~~or 628~~, or 20211 of this title, regardless of the date on which the board was convened.

* * * * *

§615. Information furnished to selection boards

(a)(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 611(a) or 20211 of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

(2) ***

(3)(A) In the case of an eligible officer considered for promotion to a grade specified in subparagraph (B), any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

(B) A grade specified in this subparagraph is as follows:

(i) In the case of a ~~regular officer, a grade above captain, in the case of the Navy, lieutenant, or in the case of the Space Force, the equivalent grade~~ regular officer or an officer in the Space Force, a grade above captain or, in the case of the Navy, lieutenant.

(ii) In the case of a reserve officer, a grade above lieutenant colonel or, in the case of the Navy, commander.

(C) ***

(D) With respect to the consideration of an officer for promotion to a grade at or below major ~~general, general or in the case of the Navy, rear admiral, or, in the case of the Space Force, the equivalent grade~~, the requirements in subparagraphs (A) and (C) may be met through the convening and actions of a special selection review board with respect to the officer under section 628a of this title.

(4) ***

(b) ***

* * * * *

SUBCHAPTER II—PROMOTIONS

* * * * *

§619. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps, ~~or Space Force~~ and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), except that the minimum period of service in effect under this subparagraph before October 1, 2008, shall be eighteen months.

(2) Subject to paragraph (4), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps, ~~or Space Force~~ and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps, ~~or Space Force~~ holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps, ~~or Space Force~~ holding a permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

(3) ***

* * * * *

§625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half)

(a) The President may vacate the promotion to the grade of brigadier general or rear admiral (lower half) of an officer who has served less than 18 months in that grade after promotion to that grade under this chapter.

(b) An officer of the Army, Air Force, or Marine Corps, ~~or Space Force~~ whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if he is a reserve officer. An officer of the Navy whose promotion is vacated under this section holds the regular grade of captain, if he is a regular officer, or the reserve grade of captain, if he is a reserve officer. An officer of the Space Force whose promotion is vacated under this section holds the grade of colonel.

(c) ***

§626. Acceptance of promotions; oath of office

(a) An officer who is appointed to a higher grade under section 624 or 20251 of this title is considered to have accepted such appointment on the date on which the appointment is made unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 624 or 20251 of this title.

SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

* * * * *

§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~~, major general or 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) ***

(2) ***

* * * * *

(e) REPORTS.—(1) Each special selection review board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each person whose recommendation for promotion it recommends for sustainment and certifying that the board has carefully considered the record and information of each person whose name was referred to it.

(2) The provisions of sections 617(b) and 618 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 611(a) of this title. However, in the case of an officer on the space force officer list, the provisions of sections 618, 20215, and 20216 of this title apply to the report and proceedings of a special selection review board convened under this section in the same manner as they apply to report and proceedings of a promotion board convened under section 20211 of this title.

(f) APPOINTMENT OF PERSONS.—(1) If the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of a person whose name was referred to it for review under this section, and the President approves the report, the person shall, as soon as practicable, be appointed to that grade in accordance with subsections (b) and (c) of section 624 of this title. However, if the report of a special selection review board convened under this section recommends the sustainment of the recommendation for promotion to the next higher grade of an officer on the space force officer list who was referred to it for review under this section, and the President approves the report, the officer shall, as soon as practicable, be appointed to the grade in accordance with subsections (b) and (c) of section 20251 of this title.

(2) ***

* * * * *

§629. Removal from a list of officers recommended for promotion

(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a list of officers recommended for promotion by a selection board convened under this chapter.

(b) REMOVAL DUE TO SENATE NOT GIVING ADVICE AND CONSENT.—If, after consideration of a list of officers approved for promotion by the President to a grade for which appointment is required by section 624(c) or 20251(c). of this title to be made by and with the advice and consent of the Senate, the Senate does not give its advice and consent to the appointment of an officer whose name is on the list, that officer's name 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 624(a) or 20251(a) of this title to a grade for which appointment is required by section 624(c) or 20251(c) 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) Paragraph (1) does not apply when the military department concerned is not able to obtain and provide to the Senate the information the Senate requires to give its advice and consent to the appointment concerned because that information is under the control of a department or agency of the Federal Government other than the Department of Defense.

(4) 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 624(a) or section 20251(a) of this title to a grade for which appointment is required by section 624(c) or section 20251(c) 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) ***

* * * * *

§633. Retirement for years of service: regular ~~lieutenant colonels and~~ and Space Force lieutenant colonels; regular Navy commanders

(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—(1) Except as provided in subsection (b) and as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ who holds the regular grade of lieutenant colonel, and each officer of the Regular Navy who holds the regular grade of commander, who is not on a list of officers recommended for promotion to the regular grade of colonel or captain, respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 28 years of active commissioned service.

(2) Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of lieutenant colonel who is not on a list of officers recommended for promotion to the grade of colonel shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) An officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 8146(e) or 8372 of this title applies.

(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.

§634. Retirement for years of service: ~~regular colonels and~~ Space Force colonels; regular Navy captains

(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—(1) Except as provided in subsection (b) and as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ who holds the regular grade of colonel, and each officer of the Regular Navy who holds the regular grade of captain, who is not on a list of officers recommended for promotion to the regular grade of brigadier general or rear admiral (lower half), respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 30 years of active commissioned service.

(2) Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of colonel who is not on a list of officers recommended for promotion to the grade of brigadier general shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) An officer of the Navy who is designated for limited duty to whom section 8372(a)(4) of this title applies.

(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.

§635. Retirement for years of service: ~~regular brigadier generals and~~ Space Force brigadier generals; regular Navy rear admirals (lower half)

(a) ARMY, NAVY, AIR FORCE, AND MARINE CORPS.—Except as provided under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ who holds the regular grade of brigadier general, and each officer of the Regular Navy who holds the regular grade of rear admiral (lower half), who is not on a list of officers recommended for promotion to the regular grade of major general or rear admiral, respectively, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 30 years of active commissioned service, whichever is later.

(b) SPACE FORCE.—Except as provided under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of brigadier general who is not on a list of officers recommended for promotion to the grade of major general shall, if not earlier retired, be retired as specified in subsection (a).

§636. Retirement for years of service: ~~regular officers in grades above brigadier general and~~ Space Force officers in grades above brigadier general; regular Navy officers in grades above rear admiral (lower half)

(a) MAJOR GENERALS AND REAR ADMIRALS SERVING IN GRADE.—(1) Except as provided in subsection (b) or (c) and under section 637(b) or 637a of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~ who holds the regular grade of major general, and each officer of the Regular Navy who holds the regular grade of rear admiral, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 35 years of active commissioned service, whichever is later.

(2) Except as provided in subsection (b) or (c) and under section 637(b) or 637a of this title, each officer of the Space Force who holds the grade of major general shall, if not earlier retired, be retired as specified in paragraph (1).

(b) LIEUTENANT GENERALS AND VICE ADMIRALS.—***

(c) GENERALS AND ADMIRALS.—***

* * * * *

SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

* * * * *

§647. Force shaping authority

(a) AUTHORITY.—The Secretary concerned may, solely for the purpose of restructuring an armed force under the jurisdiction of that Secretary—

(1) discharge an officer described in subsection (b); or

(2) transfer such an officer from the active-duty list of that armed force to the reserve active-status list of a reserve component.

(b) COVERED OFFICERS.—(1) The authority under this section may be exercised in the case of an officer (other than an officer of the Space Force) who—

(A) has completed not more than six years of service as a commissioned officer in the armed forces; or

(B) has completed more than six years of service as a commissioned officer in the armed forces, but has not completed a minimum service obligation applicable to that member.

(2) In this subsection, the term “minimum service obligation” means the initial period of required active duty service together with any additional period of required active duty service incurred during the initial period of required active duty service.

(c) APPOINTMENT OF TRANSFERRED OFFICERS.—An officer of the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps, ~~or Regular Space Force~~ who is transferred to a reserve active-status list under this section shall be discharged from the regular component concerned and appointed as a reserve commissioned officer under section 12203 of this title.

(d) REGULATIONS.—***

(e) SPACE FORCE.—For a similar provision with respect to officers of the Space Force, see section 20406 of this title.

* * * * *

CHAPTER 38—JOINT OFFICER MANAGEMENT

* * * * *

§661. Management policies for joint qualified officers

(a) ESTABLISHMENT.—The Secretary of Defense shall establish policies, procedures, and practices for the effective management of officers of the Army, Navy, Air Force, and Marine Corps, ~~and Space Force~~ on the active-duty list and officers of the Space Force on the space force officer list who are particularly trained in, and oriented toward, joint matters (as defined in section 668 of this title). Such officers shall be identified or designated (in addition to their principal military occupational specialty) as a joint qualified officer or in such other manner as the Secretary of Defense directs.

(b) ***

* * * * *

CHAPTER 39—ACTIVE DUTY

* * * * *

§688. Retired members: authority to order to active duty; duties

(a) **AUTHORITY.**—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time.

(b) **COVERED MEMBERS.**—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, ~~or Regular Space Force~~.

(2) A member of the Retired Reserve who was retired under section 1293, 7311, 7314, 8323, 9311, or 9314 of this title.

(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

(4) A retired member of the Space Force.

(c) ***

* * * * *

§690. Retired members ordered to active duty: limitation on number

(a) **GENERAL AND FLAG OFFICERS.**—Not more than 15 retired general officers of the Army, Air Force, ~~or Marine Corps~~, or Space Force, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

(b) ***

* * * * *

CHAPTER 40—LEAVE

* * * * *

§ 701. Entitlement and accumulation

(a) ***

* * * * *

(h)(1)(A) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in paragraph (2) is allowed up to a total of 12 weeks of parental leave during the one-year period beginning after the following events:

(i) The birth or adoption of a child of the member and in order to care for such child.

(ii) The placement of a minor child with the member for adoption or long-term foster care.

(B) ***

(2) Paragraph (1) applies to the following members:

(A) A member on active duty.

(B) A member of a reserve component performing active Guard and Reserve duty.

(C) A member of a reserve component subject to an active duty recall or mobilization order in excess of 12 months.

(D) A member of the Space Force in a space force active status, not on sustained duty.

(3) ***

(4) ***

(5)(A) ***

(B) Any leave authorized by this subsection for a member of a reserve component, or of the Space Force, on active duty that is not taken by the time the member is separated from active duty shall be forfeited at that time.

(6) The period of active duty of a member of a reserve component, or of the Space Force, may not be extended in order to permit the member to take leave authorized by this subsection.

* * * * *

(i) A member of a reserve component, or of the Space Force, who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b), (d), and (f), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section.

(j) ***

* * * * *

§707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken

(a) An officer—

(1) who is required to take leave under section 1182(c)(2) or 20503 of this title, any period of which is charged as excess leave under section 706(a) of this title, and

(2) whose recommendation for removal from active duty in a report of a board of inquiry is not approved by the Secretary concerned under section 1184 of this title, shall be paid, as provided in subsection (b), for the period of leave charged as excess leave.

(b) ***

* * * * *

§710. Career flexibility to enhance retention of members

(a) PROGRAMS AUTHORIZED.—Each Secretary of a military department may carry out programs under which members of the regular components or of the Space Force and members on Active Guard and Reserve duty of the armed forces under the jurisdiction of such Secretary may be inactivated from active service in order to meet personal or professional needs and returned to active service at the end of such period of inactivation from active service.

(b) PERIOD OF INACTIVATION FROM ACTIVE SERVICE; EFFECT OF INACTIVATION.—(1) The period of inactivation from active service under a program under this section of a member participating in the program shall be such period as the Secretary of the military department concerned shall specify in the agreement of the member under subsection (c), except that such period may not exceed three years.

(2) Any service by a Reserve officer or a Space Force officer in a space force active status not on active duty under section 20105(b) of this title, while participating in a program under this section shall be excluded from computation of the total years of service of that officer pursuant to section 14706(a) of this title.

(3) Any period of participation of a member in a program under this section shall not count toward—

(A) eligibility for retirement or transfer to the Ready Reserve under either chapter 571 or 1223 of this title; or

(B) computation of retired or retainer pay under chapter 71 or 1223 of this title.

(c) AGREEMENT.—Each member of the armed forces who participates in a program under this section shall enter into a written agreement with the Secretary of the military department concerned under which agreement that member shall agree as follows:

(1) To accept an appointment or enlist, as applicable, and serve in the Ready Reserve of an armed force during the period of the inactivation of the member from active service under the program or, in the case of a member of the Space Force on sustained duty, to accept release from sustained duty orders and to serve in a space force active status.

(2) ***

(d) ***

* * * * *

(g) PROMOTION.—(1)(A) An officer participating in a program under this section shall not, while participating in the program, be eligible for consideration for promotion under chapter ~~36 or 1405~~ 36, 1405, or 2005 of this title.

(B) ***

(2) ***

* * * * *

CHAPTER 43—RANK AND COMMAND

* * * * *

§741. Rank: commissioned officers of the armed forces

(a) Among the grades listed below, the grades of general and admiral are equivalent and are senior to other grades and the grades of second lieutenant and ensign are equivalent and are junior to other grades. Intermediate grades rank in the order listed as follows:

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

(b) ***

* * * * *

CHAPTER 45—THE UNIFORM

* * * * *

§772. When wearing by persons not on active duty authorized

(a) ***

* * * * *

(i) Under such regulations as the Secretary of the Air Force may prescribe, a citizen of a foreign country who graduates from an Air Force-or Space Force school may wear the appropriate aviation or space badges of the Air Force or Space Force.

* * * * *

§777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

(a) ***

* * * * *

(d) LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.—(1) The total number of colonels, Navy captains, brigadier generals, and rear admirals (lower half) on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the next higher grade may not exceed 85.

(2) The number of officers of an armed force on the active-duty list or for the Space Force, the space force officer list, who are authorized as described in subsection (a) to wear the insignia for a grade to which a limitation on total number applies under section 523(a) of this title for a fiscal year may not exceed 1 percent, or, for the grades of colonel and Navy captain, 2 percent, of the total number provided for the officers in that grade in that armed force in the administration of the limitation under that section for that fiscal year.

* * * * *

CHAPTER 47—UNIFORM CODE OF MILITARY JUSTICE

* * * * *

SUBCHAPTER I—GENERAL PROVISIONS

* * * * *

§ 802. Art. 2. Persons subject to this chapter

(a) The following persons are subject to this chapter:

(1) Members of a regular component of the armed forces, and members of the Space Force on active duty under section 20105 of this title, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

(2) Cadets, aviation cadets, and midshipmen.

(3)(A) While on inactive-duty training and during any of the periods specified in subparagraph (B)—

(i) members of a reserve component or the Space Force; and

(ii) members of the Army National Guard of the United States or the Air National Guard of the United States, but only when in Federal service.

(B) The periods referred to in subparagraph (A) are the following:

(i) Travel to and from the inactive-duty training site of the member, pursuant to orders or regulations.

(ii) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations.

(iii) Intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component, or retired members of the Space Force who qualified for a non-regular retirement and are receiving retired pay, who are receiving hospitalization from an armed force.

(6) ***

* * * * *

(13) ***

(14) Retired members of the Space Force who qualified for a regular retirement under section 20603 of this title and are receiving retired pay.

(b) ***

* * * * *

(d)(1) A member of a reserve component or the Space Force who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

(A) a preliminary hearing under section 832 of this title (article 32);

(B) trial by court-martial; or

(C) nonjudicial punishment under section 815 of this title (article 15).

(2) A member of a reserve component or the Space Force may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

(A) on active duty; or

(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces or the Space Force.

(5) ***

(e) ***

§803. Art. 3. Jurisdiction to try certain personnel

(a) ***

(b) ***

(c) ***

(d) A member of a reserve component or the Space Force who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.

* * * * *

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS

* * * * *

§937. Art. 137. Articles to be explained

(a) ENLISTED MEMBERS.—(1) The sections (articles) of this chapter specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within fourteen days after)—

(A) the member's initial entrance on active duty; ~~or~~

(B) the member's initial entrance into a duty status with a reserve component; or

(C) the member's initial entrance on active duty or into a space force active status.

(2) Such sections (articles) shall be explained again—

(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training; ~~and~~

(B) after a member of Space Force has completed six months of sustained duty or in the case of a member not on sustained duty, after the member has completed basic or recruit training; and

~~(B)-(C)~~ (C) at the time when the member reenlists.

(3) This subsection applies with respect to sections 802, 803, 807–815, 825, 827, 831, 837, 838, 855, 877–934, and 937–939 of this title (articles 2, 3, 7–15, 25, 27, 31, 37, 38, 55, 77–134, and 137–139).

(b) OFFICERS.—(1) The sections (articles) of this chapter specified in paragraph (2) shall be carefully explained to each officer at the time of (or within six months after)—

(A) the initial entrance of the officer on active duty as an officer; or

(B) the initial commissioning of the officer in a reserve component or the Space Force.

(2) This subsection applies with respect to the sections (articles) specified in subsection (a)(3) and such other sections (articles) as the Secretary concerned may prescribe by regulation.

(c) TRAINING FOR CERTAIN OFFICERS.—***

(d) AVAILABILITY AND MAINTENANCE OF TEXT.—The text of this chapter and the text of the regulations prescribed by the President under this chapter shall be—

(1) made available to a member on active duty, ~~or~~ to a member of a reserve component, or to a member of the Space Force, upon request by the member, for the member's personal examination; and

(2) maintained by the Secretary of Defense in electronic formats that are updated periodically and made available on the Internet.

* * * * *

CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

* * * * *

§973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b)(1) This subsection applies—

(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days; ~~and~~

(C) to a reserve officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days-; and

(D) to an officer on the space force officer list serving on active duty under section 20105(b) of this title or under a call or order to active duty for a period in excess of 270 days.

(2) ***

* * * * *

§976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

(a) In this section:

(1) The term “member of the armed forces” means (A) a member of the armed forces who is serving on active duty, (B) a member of the National Guard who is serving on full-time National Guard duty, or (C) a member of a Reserve component or the Space Force while performing inactive-duty training.

(2) ***

(b) ***

* * * * *

§981. Limitation on number of enlisted aides

(a) Subject to subsection (b), the total number of enlisted members that may be assigned or otherwise detailed to duty as enlisted aides on the personal staffs of officers of the Army, Navy, ~~Marine Corps,~~ Air Force, Marine Corps, Space Force, and Coast Guard (when operating as a service of the Navy) during a fiscal year is the number equal to the sum of (1) four times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of general or admiral, and (2) two times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of lieutenant general or vice admiral.

(b) Not more than 300 enlisted members may be assigned to duty at any time as enlisted aides for officers of the Army, Navy, Air Force, ~~and~~ Marine Corps, and Space Force.

(c) Not later than March 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

(1) specifying the number of enlisted aides authorized and allocated for general officers and flag officers of the Army, Navy, Air Force, Marine Corps, Space Force, and joint pool as of September 30 of the previous year; and

(2) justifying, on a billet-by-billet basis, the authorization and assignment of each enlisted aide to each general officer and flag officer position.

* * * * *

CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

* * * * *

§1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60

(a) MEMBERS OF THE SELECTED RESERVE.—A member of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use commissary stores and MWR retail facilities on the same basis as members on active duty.

(b) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—***

(c) RESERVE AND SPACE FORCE RETIREES UNDER AGE 60.—A member or former member of a reserve component or the Space Force under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title shall be permitted to use commissary stores and MWR retail facilities on the same basis as members of the armed forces entitled to retired pay under any other provision of law.

(d) MEMBERS OF THE SPACE FORCE.—A member of the Space Force in a space force active status who is not on sustained duty shall be permitted to use commissary stores and MWR retail facilities under the same conditions as specified in subsection (a) for a member of the Selected Reserve.

~~(d)~~ (e) DEPENDENTS.—(1) Dependents of a member who is permitted under subsection (a) ~~or (b)~~, (b), or (d) to use commissary stores and MWR retail facilities shall be permitted to use stores and such facilities on the same basis as dependents of members on active duty.

(2) Dependents of a member who is permitted under subsection (c) to use commissary stores and MWR retail facilities shall be permitted to use stores and such facilities on the same basis as dependents of members of the armed forces entitled to retired pay under any other provision of law.

~~(e)~~ (f) MWR RETAIL FACILITY DEFINED.—***

* * * * *

CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

* * * * *

§1141. Involuntary separation defined

A member of the armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and—

(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

(2) ***

(3) in the case of a regular enlisted member servicing on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; ~~and~~

(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned; ~~;~~ and

(5) in the case of an officer of the Space Force (other than a retired officer), the officer is involuntarily discharged or released from active duty under other than adverse conditions, as characterized by the Secretary of the Air Force; and

(6) in the case of an enlisted member of the Space Force, the member is—

(A) denied reenlistment; or

(B) involuntarily discharged or released from active duty under other than adverse conditions, as characterized by the Secretary of the Air Force.

* * * * *

CHAPTER 59—SEPARATION

* * * * *

§1174. Separation pay upon involuntary discharge or release from active duty

(a) REGULAR OFFICERS.—(1) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter) or under section 580 or 8372 of this title and who has completed six or more, but less than twenty, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1).

(2) A regular commissioned officer of the Army, Navy, Air Force, ~~Marine Corps, or Space Force~~ or Marine Corps who is discharged under section 630(1)(A), 643, or 1186 of this title, and a regular warrant officer of the Army, Navy, Air Force, ~~Marine Corps, or Space Force~~ or Marine Corps who is separated under section 1165 or 1166 of this title, who has completed six or more, but less than twenty, years of active service immediately before the discharge or separation is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary of the military department concerned, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant payment of such pay.

(3) ***

* * * * *

CHAPTER 69—RETIRED GRADE

* * * * *

§1370. Regular commissioned officers

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

(1) IN GENERAL.—Unless entitled to a different retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, Marine Corps, or Space Force who retires under any provision of law other than chapter 61 or 1223 of this title shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily.

(2) DETERMINATION OF SATISFACTORY SERVICE.—The determination of satisfactory service of an officer in a grade under paragraph (1) shall be made as follows:

(A) By the Secretary of the military department concerned, if the officer is serving in a grade at or below the grade of ~~major general, rear admiral in the Navy, or the equivalent grade in the Space Force~~ major general or rear admiral.

(B) By the Secretary of Defense, if the officer is serving or has served in a grade above the grade of ~~major general, rear admiral in the Navy, or the equivalent grade in the Space Force~~ major general or rear admiral.

(3) ***

* * * * *

(b) RETIREMENT OF OFFICERS RETIRING VOLUNTARILY.—

(1) SERVICE-IN-GRADE REQUIREMENT.—In order to be eligible for voluntary retirement under any provision of this title in a grade above the grade of captain in the Army, Air Force, ~~or Marine Corps~~, lieutenant in the Navy, or the equivalent grade in the Space Force, Marine Corps, or Space Force or lieutenant in the Navy, a commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force must have served on active duty in that grade for a period of not less than three years, except that—

(A) subject to subsection (c), the Secretary of Defense may reduce such period to a period of not less than two years for any officer; and

(B) in the case of an officer to be retired in a grade at or below the grade of ~~major general in the Army, Air Force, or Marine Corps~~, rear admiral in the Navy, or an equivalent grade in the Space Force ~~major general or rear admiral~~, the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period of not less than two years.

(2) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense in subparagraph (A) of paragraph (1) may not be delegated. The authority of the Secretary of a military department in subparagraph (B) of paragraph (1), as delegated to such Secretary pursuant to such subparagraph, may not be further delegated.

(3) WAIVER OF REQUIREMENT.—Subject to subsection (c), the President may waive the application of the service-in-grade requirement in paragraph (1) to officers covered by that paragraph in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under this paragraph may not be delegated.

(4) LIMITATION ON REDUCTION OR WAIVER OF REQUIREMENT FOR OFFICERS UNDER INVESTIGATION OR PENDING MISCONDUCT.—In the case of an officer to be retired in a grade above the grade of colonel in the Army, Air Force, ~~or Marine Corps~~, captain in the Navy, or the equivalent grade in the Space Force ~~Marine Corps, or Space Force~~ or captain in the Navy, the service-in-grade requirement in paragraph (1) may not be reduced pursuant to that paragraph, or waived pursuant to paragraph (3), while the officer is under investigation for alleged misconduct or while there is pending the disposition of an adverse personnel action against the officer.

(5) GRADE AND FISCAL YEAR LIMITATIONS ON REDUCTION OR WAIVER OF REQUIREMENTS.—The aggregate number of members of an armed force in a grade for whom reductions are made under paragraph (1), and waivers are made under paragraph (3), in a fiscal year may not exceed—

(A) in the case of officers to be retired in a grade at or below the grade of major in the Army, Air Force, ~~or Marine Corps~~, lieutenant commander in the Navy, or the equivalent grade in the Space Force, Marine Corps, or Space Force or lieutenant commander in the Navy, the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade;

(B) in the case of officers to be retired in the grade of lieutenant colonel or colonel in the Army, Air Force, ~~or Marine Corps~~, commander or captain in the Navy, or an equivalent grade in the Space Force, Marine Corps, or Space Force or commander or captain in the Navy, the number equal to four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in the applicable grade; or

(C) in the case of officers to be retired in the grade of brigadier general or major general in the Army, Air Force, ~~or Marine Corps, rear admiral (lower half) or rear admiral in the Navy, or an equivalent grade in the Space Force,~~ Marine Corps, or Space Force or rear admiral (lower half) or rear admiral in the Navy, the number equal to 10 percent of the authorized active-duty strength for that fiscal year for officers of that armed force in the applicable grade.

(6) NOTICE TO CONGRESS ON REDUCTION OR WAIVER OF REQUIREMENTS FOR GENERAL, FLAG, AND EQUIVALENT OFFICER GRADES.—In the case of an officer to be retired in a grade that is a general or flag officer grade, ~~or an equivalent grade in the Space Force,~~ who is eligible to retire in that grade only by reason of an exercise of the authority in paragraph (1) to reduce the service-in-grade requirement in that paragraph, or the authority in paragraph (3) to waive that requirement, the Secretary of Defense or the President, as applicable, shall, not later than 60 days prior to the date on which the officer will be retired in that grade, notify the Committees on Armed Services of the Senate and the House of Representatives of the exercise of the applicable authority with respect to that officer.

(7) RETIREMENT IN NEXT LOWEST GRADE FOR OFFICERS NOT MEETING REQUIREMENT.—An officer described in paragraph (1) whose length of service in the highest grade held by the officer while on active duty does not meet the period of the service-in-grade requirement applicable to the officer under this subsection shall, subject to subsection (c), be retired in the next lower grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the military department concerned or the Secretary of Defense, as applicable.

(c) OFFICERS IN O-9 AND O-10 GRADES.—

(1) IN GENERAL.—An officer of the Army, Navy, Air Force, 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, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force~~ 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 on active duty satisfactorily in such grade.

(2) PROHIBITION ON DELEGATION.—The authority of the Secretary of Defense to make a certification with respect to an officer under paragraph (1) may not be delegated.

(3) ***

* * * * *

(d) CONDITIONAL RETIREMENT GRADE AND RETIREMENT FOR OFFICERS PENDING INVESTIGATION OR ADVERSE ACTION.—

(1) IN GENERAL.—When an officer serving in a grade at or below the grade of major general in the Army, Air Force, ~~or Marine Corps, rear admiral in the Navy, or an equivalent grade in the Space Force~~ Marine Corps, or Space Force or rear admiral in the Navy is under investigation for alleged misconduct or pending the disposition of an adverse personnel action at the time of retirement, the Secretary of the military department concerned may—

(A) conditionally determine the highest permanent grade of satisfactory service on active duty of the officer pending completion of the investigation or resolution of the personnel action, as applicable; and

(B) retire the officer in that conditional grade, subject to subsection (e).

(2) OFFICERS IN O-9 AND O-10 GRADES.—***

(3) REDUCTION OR WAIVER OF SERVICE-IN-GRADE REQUIREMENT PROHIBITED FOR GENERAL, FLAG, AND EQUIVALENT OFFICER GRADES.—In conditionally determining the retirement grade of an officer under paragraph (1)(A) or (2)(A) of this subsection to be a grade above the grade of colonel in the Army, Air Force, ~~or Marine Corps, captain in the Navy, or the equivalent grade in the Space Force,~~ Marine Corps, or Space Force or captain in the Navy, the service-in-grade requirement in subsection (b)(1) may not be reduced pursuant to subsection (b)(1) or waived pursuant to subsection (b)(3).

(4) PROHIBITION ON DELEGATION.—The authority of the Secretary of a military department under paragraph (1) may not be delegated. The authority of the Secretary of Defense under paragraph (2) may not be delegated.

(e) FINAL RETIREMENT GRADE FOLLOWING RESOLUTION OF PENDING INVESTIGATION OR ADVERSE ACTION.—

(1) NO CHANGE FROM CONDITIONAL RETIREMENT GRADE.—If the resolution of an investigation or personnel action with respect to an officer who has been retired in a conditional retirement grade pursuant to subsection (d) results in a determination that the conditional retirement grade in which the officer was retired will not be changed, the conditional retirement grade of the officer shall, subject to paragraph (3), be the final retired grade of the officer.

(2) Change from conditional retirement grade.—If the resolution of an investigation or personnel action with respect to an officer who has been retired in a conditional retirement grade pursuant to subsection (d) results in a determination that the conditional retirement grade in which the officer was retired should be changed, the changed retirement grade shall be the final retired grade of the officer under this section, except that if the final retirement grade provided for an officer pursuant to this paragraph is the grade of lieutenant general or general in the Army, Air Force, ~~or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force,~~ Marine Corps, or Space Force or vice admiral or admiral in the Navy, the requirements in subsection (c) shall apply in connection with the retirement of the officer in such final retirement grade.

(3) ***

(f) FINALITY OF RETIRED GRADE DETERMINATIONS.—

(1) IN GENERAL.—Except for a conditional determination authorized by subsection (d), a determination of the retired grade of an officer pursuant to this section is administratively final on the day the officer is retired, and may not be reopened, except as provided in paragraph (2).

(2) ***

(3) APPLICABLE SECRETARY.—For purposes of this subsection, the applicable Secretary for purposes of a determination or action specified in this subsection is—

(A) the Secretary of the military department concerned, in the case of an officer retired in a grade at or below the grade of major general in the Army, Air Force, ~~or Marine Corps, rear admiral in the Navy, or the equivalent grade in the Space Force,~~ Marine Corps, or Space Force or rear admiral in the Navy; or

(B) the Secretary of Defense, in the case of an officer retired in a grade of lieutenant general or general in the Army, Air Force, ~~or Marine Corps, vice~~

~~admiral or admiral in the Navy, or an equivalent grade in the Space Force Marine Corps, or Space Force or vice admiral or admiral in the Navy.~~

(4) ***

(5) ***

(6) MANNER OF MAKING OF CHANGE.—If the retired grade of an officer is proposed to be changed through the reopening of the final determination of an officer's retired grade under this subsection, the change in grade shall be made—

(A) in the case of an officer whose retired grade is to be changed to a grade at or below the grade of major general in the Army, Air Force ~~or Marine Corps, rear admiral in the Navy, or the equivalent grade in the Space Force,~~ Marine Corps, or Space Force or rear admiral in the Navy in accordance with subsections (a) and (b)—

(i) by the Secretary of Defense (who may delegate such authority only as authorized by clause (ii)); or

(ii) if authorized by the Secretary of Defense, by the Secretary of the military department concerned (who may not further delegate such authority);

(B) in the case of an officer whose retired grade is to be changed to the grade of lieutenant general or general in the Army, Air Force, ~~or Marine Corps, vice admiral or admiral in the Navy, or an equivalent grade in the Space Force,~~ Marine Corps, or Space Force or vice admiral or admiral in the Navy by the President, by and with the advice and consent of the Senate.

(7) ***

(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, rear admiral in the Navy, or an equivalent grade in the Space Force~~ Marine Corps, or Space Force or rear admiral in the Navy.

* * * * *

CHAPTER 75—DECEASED PERSONNEL

* * * * *

SUBCHAPTER II—DEATH BENEFITS

* * * * *

§1491. Funeral honors functions at funerals for veterans

(a) AVAILABILITY OF FUNERAL HONORS DETAIL ENSURED.—The Secretary of Defense shall ensure that, upon request, a funeral honors detail is provided for the funeral of any veteran, except when military honors are prohibited under section 985(a) of this title.

* * * * *

(h) VETERAN DEFINED.—In this section, the term “veteran” means a decedent who—

(1) served in the active military, naval, ~~or air,~~ or space service (as defined in section 101(24) of title 38) and who was discharged or released therefrom under conditions other than dishonorable; or

(2) was a member or former member of the Selected Reserve described in section 2301(f) of title 38.

* * * * *

CHAPTER 79—CORRECTION OF MILITARY RECORDS

* * * * *

§1555. Professional staff

(a) The Secretary of each military department shall assign to the staff of the service review agency of that military department at least one attorney and at least one physician. Such assignments shall be made on a permanent, full-time basis and may be made from members of the armed forces or civilian employees.

(b) ***

(c) In this section, the term “service review agency” means—

- (1) with respect to the Department of the Army, the Army Review Boards Agency;
- (2) with respect to the Department of the Navy, the Navy Council of Personnel Boards and the Board for Correction of Naval Records; and
- (3) with respect to the Department of the Air Force, the Department of the Air Force Review Boards Agency.

§1556. Ex parte communications prohibited

(a) IN GENERAL.—The Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency, the Department of the Air Force Review Boards Agency, or the Board for Correction of Naval Records, as the case may be, is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant's case or have a material effect on the applicant's case.

(b) EXCEPTIONS.—***

§1557. Timeliness standards for disposition of applications before Corrections Boards

(a) ***

* * * * *

(f) CORRECTIONS BOARD DEFINED.—In this section, the term “Corrections Board” means—

- (1) with respect to the Department of the Army, the Army Board for Correction of Military Records;
- (2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and
- (3) with respect to the Department of the Air Force, the Department of the Air Force Board for Correction of Military Records.

§1558. Review of actions of selection boards: correction of military records by special boards; judicial review

(a) CORRECTION OF MILITARY RECORDS.—The Secretary of a military department may correct a person's military records in accordance with a recommendation made by a special board. Any such correction may be made effective as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

(b) DEFINITIONS.—In this section:

- (1) SPECIAL BOARD.—(A) The term “special board” means a board that the Secretary of a military department convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component, or

the Space Force, instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.

(B) Such term includes a board for the correction of military records convened under section 1552 of this title, if designated as a special board by the Secretary concerned.

(C) Such term does not include a promotion special selection board convened under section ~~628 or 14502-628~~, 14502, or 20251 of this title.

(2) SELECTION BOARD.—(A) The term “selection board” means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, ~~or 14705-14705~~, or 20403 of this title, and any other board convened by the Secretary of a military department under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component, or the Space Force, for the purpose of reducing the number of persons serving in the armed forces.

(B) Such term does not include any of the following:

(i) A promotion board convened under section 573(a), 611(a), ~~or 14101(a)~~, 14101(a), or 20211 of this title.

(ii) A special board.

(iii) A special selection board convened under section 628 of this title.

(iv) A board for the correction of military records convened under section 1552 of this title.

(3) INVOLUNTARILY BOARD-SEPARATED.—The term “involuntarily board-separated” means separated or retired from an armed force, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as a result of a recommendation of a selection board.

(c) RELIEF ASSOCIATED WITH CORRECTION OF CERTAIN ACTIONS.—(1) The Secretary of the military department concerned shall ensure that an involuntarily board-separated person receives relief under paragraph (2) or under paragraph (3) if the person, as a result of a correction of the person's military records under subsection (a), becomes entitled to retention on or restoration to active duty or to active status in a reserve component, or the Space Force.

(2)(A) A person referred to in paragraph (1) shall, with that person's consent, be restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in that person's armed force as the person would have had if the person had not been selected to be involuntarily board-separated as a result of an action the record of which is corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

(B) Nothing in subparagraph (A) may be construed to permit a person to be on active duty or in a space component active status in a reserve component, or the Space Force, after the date on which the person would have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, if the person had not been selected to be involuntarily board-separated in an action of a selection board the record of which is corrected under subsection (a).

(3) If an involuntarily board-separated person referred to in paragraph (1) does not consent to a restoration of status, rights, and entitlements under paragraph (2), the Secretary concerned shall pay that person back pay and allowances (less appropriate offsets), and shall provide that person service credit, for the period—

(A) beginning on the date of the person's separation, retirement, or transfer to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as the case may be; and

(B) ending on the earlier of—

(i) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

(ii) the date on which the person would otherwise have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, or the Space Force, as the case may be.

(d) ***

* * * * *

§1559. Personnel limitation

(a) LIMITATION.—Before December 31, 2025, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term “service review agency” means—

(1) ***

(2) ***; and

(3) with respect to the Department of the Air Force, the Department of the Air Force Review Boards Agency.

* * * * *

CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

* * * * *

§1563. Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion

(a) REVIEW BY SECRETARY CONCERNED.—***

(b) NOTICE OF RESULTS OF REVIEW.—***

(c) AUTHORITY TO MAKE.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of Defense may make an honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces to any grade not exceeding the grade of major ~~general~~, general or rear admiral (upper half), ~~or an equivalent grade in the Space Force~~ following the submittal of the determination of the Secretary concerned under subsection (b) in connection with the proposal for the promotion if the determination is to approve the making of the promotion.

(2) ***

* * * * *

(d) DEFINITION.—***

§1563a. Honorary promotions on the initiative of the Department of Defense

(a) IN GENERAL.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may make an honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces to any grade not exceeding the grade of major ~~general,~~ general or rear admiral (upper half), ~~or an equivalent grade in the Space Force~~ if the Secretary determines that the promotion is merited.

(2) ***

* * * * *

**CHAPTER 88—MILITARY FAMILY PROGRAMS
AND MILITARY CHILD CARE**

* * * * *

SUBCHAPTER I—MILITARY FAMILY PROGRAMS

* * * * *

§ 1781a. Department of Defense Military Family Readiness Council

(a) IN GENERAL.—There is in the Department of Defense the Department of Defense Military Family Readiness Council (in this section referred to as the “Council”).

(b) MEMBERS.—(1) The Council shall consist of the following members:

(A) ***

(B) The following persons, who shall be appointed or designated by the Secretary of Defense:

(i) ***

(ii) ***

(iii) One spouse or parent of a member of each of the Army, Navy, Air Force, Marine Corps, and Space Force, two of whom shall be the spouse or parent of an active component ~~member and member,~~ two of whom shall be the spouse or parent of a reserve component member, and one of whom shall be the spouse or parent of a member of the Space Force.

(C) ***

(2) ***

* * * * *

§1781b. Department of Defense policy and plans for military family readiness

(a) POLICY AND PLANS REQUIRED.—The Secretary of Defense shall develop a policy and plans for the Department of Defense for the support of military family readiness.

(b) PURPOSES.—The purposes of the policy and plans required under subsection (a) are as follows:

(1) To ensure that the military family readiness programs and activities of the Department of Defense are comprehensive, effective, and properly supported.

(2) To ensure that support is continuously available to military families in peacetime and in war, as well as during periods of force structure change and relocation of military units.

(3) To ensure that the military family readiness programs and activities of the Department of Defense are available to all military families, including military families of members of ~~the regular components and military families of members of the reserve components~~ the regular components, the reserve components, and the Space Force.

(4) To make military family readiness an explicit element of applicable Department of Defense plans, programs, and budgeting activities, and that achievement of military family readiness is expressed through Department-wide goals that are identifiable and measurable.

(5) To ensure that the military family readiness programs and activities of the Department of Defense undergo continuous evaluation in order to ensure that resources are allocated and expended for such programs and activities to achieve Department-wide family readiness goals.

(c) ELEMENTS OF POLICY.—The policy required under subsection (a) shall include the following elements:

(1) A list of military family readiness programs and activities.

(2) Department of Defense-wide goals for military family support, including joint programs, ~~both for military families of members of the regular components and military families of members of the reserve components~~ the regular components, members of the reserve components, and members of the Space Force.

(3) ***

(4) ***

(5) ***

* * * * *

CHAPTER 101—TRAINING GENERALLY

* * * * *

§2007. The payment of tuition for off-duty training or education

(a) Subject to subsections (b) and (c), the Secretary concerned may pay all or a portion of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such educational institution for education or training during the member's off-duty periods.

(b) ***

* * * * *

(f) ***

(g) The provisions of this section pertaining to members of the Ready Reserve, the Selected Reserve, or the Individual Ready Reserve also apply to members of the Space Force in a space force active status who are not on active duty.

* * * * *

CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

* * * * *

§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~~, Navy or as a

second lieutenant in the Army, Air Force, Marine Corps, ~~or as an officer in the equivalent grade in the Space Force~~ or Space Force, as the case may be.

(b) ***

* * * * *

(k) Applicability to Space Force.—(1) Provisions of this section referring to a regular commission, regular officer, or a commission in a regular component shall be treated as also referring to the commission of an officer, or an officer, who is a commissioned officer in the Space Force serving on active duty pursuant to section 20105(b) of this title.

(2) Provisions of this section referring to a reserve commission, reserve officer, or a commission in a reserve component shall be treated as also referring to the commission of an officer, or an officer, who is a commissioned officer in the Space Force not serving on active duty pursuant to section 20105(b) of this title.

* * * * *

§2111. Personnel: administrators and instructors

The Secretary of the military department concerned may detail regular or reserve members of an armed force under his jurisdiction (including retired members and members of the Fleet Reserve and Fleet Marine Corps Reserve recalled to active duty with their consent) for instructional and administrative duties at educational institutions where units of the program are maintained. The Secretary of the Air Force may detail members of the Space Force in the same manner as regular and reserve members of the Air Force.

Subtitle D—Air Force and Space Force

PART I—ORGANIZATION

CHAPTER 903—DEPARTMENT OF THE AIR FORCE

§9020. Inspector General

(a) There is an Inspector General of the Department of the Air Force who shall be detailed to such position by the Secretary of the Air Force from the general officers of the Air Force ~~or the general, flag, or equivalent officers of the Space Force~~. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

CHAPTER 908—THE SPACE FORCE

§9081. The United States Space Force

(a) ESTABLISHMENT.—There is established a United States Space Force as an armed force within the Department of the Air Force.

(b) COMPOSITION.—The Space Force consists of—

~~(1) the Regular Space Force;~~

~~(2) all persons appointed or enlisted in, or conscripted into, the Space Force, including those not assigned to units, necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency; and~~

~~(3) all Space Force units and other Space Force organizations, including installations and supporting and auxiliary combat, training, administrative, and logistic elements.~~

(c) FUNCTIONS.—The Space Force shall be organized, trained, and equipped to—

(1) provide freedom of operation for the United States in, from, and to space;

(2) conduct space operations; and

(3) protect the interests of the United States in space.

§ 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) ***

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

(1) ***

~~(5) perform duties prescribed for the Chief of Space Operations by sections 171, 1808(a), and 1847(e)(4)(B), (5) of this title and other provision of law 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 Chief~~ The Chief of Space Operations shall be a member of the Joint Chiefs of Staff.

(2) ***

~~§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.~~

PART II—PERSONNEL

CHAPTER 913—ENLISTMENTS

§9132. Regular Air Force and ~~Regular~~ Space Force: gender-free basis for acceptance of original enlistments

In accepting persons for original enlistment in the Regular Air Force or the ~~Regular~~ Space Force, the Secretary of the Air Force may not—

- (1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to gender for skill categories or jobs; or
- (2) in any other way base the acceptance of a person for such an enlistment on gender.

§9138. Regular Air Force and ~~Regular~~ Space Force: reenlistment after service as an officer

(a) Any former enlisted member of the Regular Air Force, or the ~~Regular~~ Space Force, who has served on active duty as an officer of the Air Force or the Space Force, or who was discharged as an enlisted member to accept an appointment as an officer of the Air Force or the Space Force, is entitled to be reenlisted in the Regular Air Force, or the ~~Regular~~ Space Force, in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty, if (1) his service as an officer is terminated by an honorable discharge or he is relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and (2) he applies for reenlistment within six months (or such other period as the Secretary of the Air Force prescribes for exceptional circumstances) after termination of that service.

(b) ***

CHAPTER 915—APPOINTMENTS IN THE REGULAR AIR FORCE AND IN THE ~~REGULAR~~ SPACE FORCE

§9151. Commissioned officer grades

The commissioned grades in the Regular Air Force and in the Space Force are:

- (1) Major general.
- (2) Brigadier general.
- (3) Colonel.
- (4) Lieutenant colonel.
- (5) Major.
- (6) Captain.
- (7) First lieutenant.
- (8) Second lieutenant.

§9160. Warrant officers: original appointment; qualifications

Original appointments as warrant officers in the Regular Air Force or the ~~Regular~~ Space Force shall be made from persons who have served on active duty at least one year in the Air Force or the Space Force.

CHAPTER 933—MISCELLANEOUS RIGHTS AND BENEFITS

§9252. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Air Force or the ~~Regular~~ Space Force is entitled to count active service as an officer in the Air Force, in the Space Force, and in the Army, as enlisted service for all purposes.

CHAPTER 943—RETIRED GRADE

§9341. General rule

(a)(1) The retired grade of a regular commissioned officer of the Air Force ~~or the Space Force~~ who retires other than for physical disability is determined under section 1370 of this title.

(2) The retired grade of a reserve commissioned officer of the Air Force ~~or the Space Force~~ who retires other than for physical disability is determined under section 1370a of this title.

(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Air Force ~~or Regular or Reserve of the Space Force~~ not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that the member holds on the date of the member's retirement.

(c) Space Force.—(1) The retired grade of a commissioned officer of the Space Force who retires other than for physical disability is determined under section 1370 or 1370a of this title, as application to the officer.

(2) Unless entitled to a higher retired grade under some other provision of law, a member of the Space Force not covered by paragraph (1) who retires other than for physical disability retires in the grade that the member holds on the date of the member's retirement.

§9344. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each retired member of the Air Force or the Space Force covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily (or, in the case of a member of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Air Force.

(b) This section applies to—

(1) warrant officers of the Air Force or the Space Force;

(2) enlisted members of the Regular Air Force or the ~~Regular~~ Space Force; and

(3) reserve enlisted members of the Air Force or the Space Force who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time duty).

§9346. Retired lists

(a) The Secretary of the Air Force shall maintain a retired list containing the name of each retired commissioned officer of the Regular Air Force ~~or the Regular Space Force~~ and a separate retired list containing the name of each retired commissioned officer of the Space Force (other than an officer whose name is on the list maintained under subsection (b)(2)).

(b)(1) The Secretary shall maintain a retired list containing the name of—

(1A) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Air Force, other than of the Regular Air Force, ~~or for commissioned officers of the Space Force other than of the Regular Space Force;~~ and

(2B) each retired warrant officer or enlisted member of the Air Force ~~or the Space Force~~ who is advanced to a commissioned grade.

(2) The Secretary shall maintain a retired list containing the name of—

(A) each person entitled to retired pay who as a member of the Space Force qualified for retirement under section 20601 of this title; and

(B) each retired warrant officer or enlisted member of the Space Force who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Air Force ~~or the Space Force~~ and a separate retired list containing the name of each retired warrant officer of the Space Force.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Air Force, ~~or the Regular Space Force~~ and a separate retired list containing the name of each retired enlisted member of the Space Force.

PART III—TRAINING

CHAPTER 951—TRAINING GENERALLY

§9401. Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Air Force may detail members of the Air Force and members of the Space Force as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Air Force ~~or the Regular Space Force~~ on the active-duty list, or one of the Space Force in a space force active status not on sustained duty, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Air Force, ~~or Reserve of the Space Force,~~ or member of the Space Force in a space force active status not on sustained duty may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without the Reserve's consent the

member's consent and, if a member of the Air National Guard of the United States, without the approval of the governor or other appropriate authority of the State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands of whose Air National Guard he or she is a member.

(d) ***

(e) ***

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in enlisted members, of the Regular Air Force, ~~or the Regular Space Force~~ of Space Force members on sustained duty, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Air Force or the ~~Space Force Reserve~~ of Space Force members in an active status not on sustained duty, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) ***

§ 9419: Recruit basic training: separate housing for male and female recruits

(a) ***

(d) BASIC TRAINING DEFINED.—In this section, the term “basic training” means the initial entry training program of the Air Force or the Space Force that constitutes the basic training of new recruits.

CHAPTER 953—UNITED STATES AIR FORCE ACADEMY

§9436. Permanent professors; director of admissions

(a) A permanent professor of the Academy who is the head of a department of instruction, or who has served as such a professor for more than six years, has the grade of colonel in the Air Force or ~~the equivalent grade in the Space Force~~. However, a permanent professor appointed from the Regular Air Force or the Space Force has the grade of colonel ~~and a permanent professor appointed from the Regular Space Force has the grade equivalent to the grade of colonel in the Regular Air Force~~ after the date when such person completes six years of service as a professor, or after the date on which such person would have been promoted had such person been selected for promotion from among officers in the promotion zone, whichever is earlier. All other permanent professors have the grade of lieutenant colonel in the Air Force or ~~the equivalent grade in the Space Force~~.

(b) A person appointed as director of admissions of the Academy has the regular grade of lieutenant colonel in the Air Force or ~~the equivalent grade in the~~ grade of lieutenant colonel in the Space Force, and, after such person has served six years as director of admissions, has the regular grade of colonel in the Air Force or ~~the equivalent grade in the~~ grade of lieutenant colonel in the Space Force. However, a person appointed from the Regular Air Force has the regular grade of colonel and a person appointed from the ~~Regular Space Force~~ Space Force has the grade equivalent to the grade of colonel in the Regular Air Force Space Force has the grade of colonel

in the Space Force after the date when such person completes six years of service as director of admissions, or after the date on which such person would have been promoted had such person been selected for promotion from among officers in the promotion zone, whichever is earlier.

§9442. Cadets: appointments; numbers, territorial distribution

(a) The authorized strength of cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,400 or such lower number as may be prescribed by the Secretary of the Air Force under subsection (j). Subject to that limitation, cadets are selected as follows:

(1) ***

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components, or the Space Force, and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under chapter 1223 of this title except for not having attained 60 years of age; however, a person who is eligible for selection under paragraph (1) of subsection (a) may not be selected under this paragraph.

(2) 85 nominated by the Secretary of the Air Force from enlisted members of the Regular Air Force, or the ~~Regular~~ Space Force.

(3) 85 nominated by the Secretary of the Air Force from enlisted members of reserve components of the Air Force.

(4) ***

(5) ***

* * * * *

§9448. Cadets: agreement to serve as officer

(a) Each cadet shall sign an agreement with respect to the cadet's length of service in the armed forces. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Academy.

(2) That upon graduation from the Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Air Force or the ~~Regular~~ Space Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer, or to terminate the officer's order to sustained duty in the Space Force, before completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer as a Reserve in the Air Force for service in the Air Force Reserve ~~or as a Reserve in the Space Force for service in the Space Force Reserve~~ or will accept further assignment in a space force active status; and

(B) will remain in that reserve component, or the Space Force, until completion of the commissioned service obligation of the cadet.

(4) ***

* * * * *

§9452. Cadets: hazing

(a) Subject to the approval of the Secretary of the Air Force, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed as a cadet, and is ineligible for appointment as a commissioned officer in a regular component of the Army, Navy, Air Force, ~~Marine Corps, or Space Force~~ or Marine Corps, or in the Space Force until two years after the graduation of his class.

§9453. Cadets: degree and commission on graduation

(a) The Superintendent of the Academy may, under such conditions as the Secretary of the Air Force may prescribe, confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Air Force ~~or in the equivalent grade in the Regular Space Force~~ under section 531 of this title or a second lieutenant in the Space Force under section 531 or 20201 of this title.

* * * * *

CHAPTER 957—SCHOOLS AND CAMPS

* * * * *

§9481. Establishment: purpose

The Secretary of the Air Force may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Air Force, the Space Force, and civilians, ~~to qualify them for appointment~~ to qualify them for —

(1) appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Air Force Reserve, ~~or the Space Force Reserve~~ or

(2) appointment as officers, or enlistment as noncommissioned officers, for service in the Space Force in a space force active status.

§9482. Operation

In maintaining camps established under section 9481 of this title, the Secretary of the Air Force may—

- (1) prescribe the periods during which they will be operated;
- (2) prescribe regulations for their administration;
- (3) prescribe the courses to be taught;
- (4) detail members of the Regular Air Force, ~~or the Regular Space Force~~ or members of the Space Force in an active status, to designated duties relating to the camps;
- (5) ***

Subtitle E—Reserve Components

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Sec.

- 20001. Single military personnel management system.
- 20002. Members: duty status.
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§20001. Single military personnel management system

Members of the Space Force shall be managed through a single military personnel management system, without component.

§20002. Members: duty status

Under regulations prescribed by the Secretary of the Air Force, each member of the Space Force shall be placed in one of the following duty statuses:

- (1) Space force active status.
- (2) Space force inactive status.
- (3) Space force retired status.

§20003. Members: minimum service requirement as applied to Space Force

(a) In applying section 651 of this title to a person who becomes a member of the Space Force, the provisions of the second sentence of subsection (a) and of subsection (b) of that section (relating to service in a reserve component) are inapplicable.

(b) A member of the Space Force who transfers to one of the other armed forces before completing the service required by subsection (a) of section 651 of this title shall upon such transfer be subject to section 651 of this title in the same manner as if such member had initially entered the armed force to which the member transfers.

CHAPTER 2003—STATUS AND PARTICIPATION

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20108. Members of Space Force: credit for service for purposes of laws providing benefits for members, dependents, and survivors.

20109. Policy for order to active duty based upon determination by Congress.

§20101. Members in Space Force active status: amount of annual training or active duty service required

Except as specifically provided in regulations prescribed by the Secretary of Defense, a member of the Space Force in a space force active status who is not serving on sustained duty shall be required to—

(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for not less than 14 days (exclusive of travel time) during each year; or

(2) serve on active duty for training not more than 30 days during each year.

§20102. Individual Ready Guardians: designation; mobilization category

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may designate a member of the Space Force in a space force active status as an Individual Ready Guardian.

(b) MOBILIZATION CATEGORY.—

(1) IN GENERAL.—Among members of the Space Force designated as Individual Ready Guardians, there is a category of members (referred to as a ‘mobilization category’) who, as designated by the Secretary of the Air Force, are subject to being ordered to active duty without their consent in accordance with section 20106(a) of this title.

(2) LIMITATIONS ON PLACEMENT IN MOBILIZATION CATEGORY.—A member designated as an Individual Ready Guardian may not be placed in the mobilization category referred to in paragraph (1) unless—

(A) the member volunteers to be placed in that mobilization category; and

(B) the member is selected by the Secretary of the Air Force, based upon the needs of the Space Force and the grade and military skills of that member.

(3) LIMITATION ON TIME IN MOBILIZATION CATEGORY.—A member of the Space Force in a space force active status may not remain designated an Individual Ready Guardian in such mobilization category after the end of the 24-month period beginning on the date of the separation of the member from active service.

(4) DESIGNATION OF GRADES AND MILITARY SKILLS OR SPECIALTIES.—The Secretary of the Air Force shall designate the grades and military skills or specialties of members to be eligible for placement in such mobilization category.

(5) BENEFITS.—A member in such mobilization category shall be eligible for benefits (other than pay and training) on the same basis as are available to members of the Individual Ready Reserve who are in the special mobilization category under section 10144(b) of this title, as determined by the Secretary of Defense.

§20103. Members not on sustained duty: agreements concerning conditions of service

(a) AGREEMENTS.—The Secretary of the Air Force may enter into a written agreement with a member of the Space Force not on sustained duty—

- (1) requiring the member to serve on active duty for a definite period of time;
- (2) specifying the conditions of the member's service on active duty; and
- (3) for a member serving in a space force inactive status, specifying the conditions for the member's continued service as well as order to active duty with and without the consent of the member.

(b) CONDITIONS OF SERVICE.—An agreement under subsection (a) shall specify the conditions of service. The Secretary of the Air Force shall prescribe regulations establishing—

- (1) what conditions of service may be specified in the agreement;
- (2) the obligations of the parties; and
- (3) the consequences of failure to comply with the terms of the agreement.

(c) AUTHORITY FOR RETENTION ON ACTIVE DUTY DURING WAR OR NATIONAL EMERGENCY.—If the period of service on active duty of a member under an agreement under subsection (a) expires during a war or during a national emergency declared by Congress or the President, the member concerned may be kept on active duty, without the consent of the member, as otherwise prescribed by law.

§20104. Orders to active duty: with consent of member

(a) AUTHORITY.—A member of the Space Force who is serving in a space force active status and is not on sustained duty, or who is serving in a space force inactive status, may, with the consent of the member, be ordered to active duty, or retained on active duty, under the following sections of chapter 1209 of this title in the same manner as applies to a member of a reserve component ordered to active duty, or retained on active duty, under that section with the consent of the member:

- (1) Section 12301(d), relating to orders to active duty at any time with the consent of the member.
- (2) Section 12301(h), relating to orders to active duty in connection with medical or health care matters.
- (3) Section 12322, relating to active duty for health care.
- (4) Section 12323, relating to active duty pending line of duty determination required for response to sexual assault.

(b) APPLICABLE PROVISIONS OF LAW.—The following sections of chapter 1209 of this title pertaining to a member of a reserve component ordered to active duty with the consent of the member apply to a member of the Space Force who is ordered to active duty under this section in the same manner as to such a reserve component member:

- (1) Section 12308, relating to retention after becoming qualified for retired pay.
- (2) Section 12309, relating to use of Reserve officers in expansion of armed forces.
- (3) Section 12313, relating to release of reserve members 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 12318, relating to duties and funding of reserve members on active duty.
- (8) Section 12320, relating to grade in which ordered to active duty.
- (9) Section 12321, relating to a limitation on number of reserve members assigned to Reserve Officer Training Corps units.

§20105. Sustained duty

(a) ENLISTED MEMBERS.—An authority designated by the Secretary of the Air Force may order an enlisted member of the Space Force in a space force active status to sustained duty, or retain an enlisted member on sustained duty, with the consent of that member, as specified in the terms of the member’s enlistment or reenlistment agreement.

(b) OFFICERS.—

(1) An authority designated by the Secretary of the Air Force may order a Space Force officer in a space force active status to sustained duty—

(A) with the consent of the officer; or

(B) to fulfill the terms of an active-duty service commitment incurred by the officer under any provision of law.

(2) An officer ordered to sustained duty under paragraph (1) may not be released from sustained duty without the officer’s consent except as provided in chapter 2009 or 2011 of this title.

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

(a) MEMBERS IN A SPACE FORCE ACTIVE STATUS.—

(1) A member of the Space Force in a space force active status who is not on sustained duty, may, without the consent of the member, be ordered to active duty or inactive duty in the same manner as a member of a reserve component ordered to active duty or inactive duty under the provisions of chapter 1209 of this title and any other provision of law authorizing the order to active duty of a member of a reserve component in an active status without the consent of the member.

(2) The provisions of chapter 1209 of this title, or other applicable provisions of law, pertaining to a member of the Ready Reserve when ordered to active duty shall apply to a member of the Space Force who is in a space force active status when ordered to active duty under paragraph (1).

(3) The provisions of section 12304 of this title pertaining to members in the Individual Ready Reserve mobilization category shall apply to a member of the Space Force who is designated an Individual Ready Guardian when ordered to active duty who meets the provisions of section 20102(b) of this title.

(b) MEMBERS IN A SPACE FORCE INACTIVE STATUS.—

(1) A member of the Space Force in a space force inactive status may be ordered to active duty under—

(A) the provisions of chapter 1209 of this title;

(B) any other provision of law authorizing the order to active duty of a member of a reserve component in an inactive status; and

(C) the terms of any agreement entered into by the member under section 20103 of this title.

(2) The provisions of chapter 1209 of this title, or other applicable provisions of law, pertaining to the Standby Reserve shall apply to a member of the Space Force who is in a space force inactive service when ordered to active duty.

(c) MEMBERS IN A SPACE FORCE RETIRED STATUS.—

(1) Chapters 39 and 1209 of this title include provisions authorizing the order to active duty of a member of the Space Force in a space force retired status.

(2) The provisions of sections 688, 688a, and 12407 of this title pertaining to a retired member or a member of the Retired Reserve shall apply to a member of the Space Force in a space force retired status when ordered to active duty.

(3) The provisions of section 689 of this title pertaining to a retired member ordered to active duty shall apply to a member of the Space Force in a space force retired status who is ordered to active duty.

(d) OTHER APPLICABLE PROVISIONS.—The following provisions of chapter 1209 of this title pertaining 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.

§20107. Transfer to inactive status: initial service obligation not complete

(a) GENERAL RULE.—A member of the Space Force who has not completed the required minimum service obligation referred to in section 20003 of this title shall, if terminating space force active status, be transferred to a space force inactive status and, unless otherwise designated an Individual Ready Guardian under section 20102 of this title, shall remain subject to order to active duty without the member's consent under section 20106 of this title.

(b) EXCEPTION.—Subsection (a) does not apply to a member who is separated from the Space Force by the Secretary of the Air Force under section 20503 of this title.

§20108. Members of Space Force: credit for service for purposes of laws providing pay and benefits for members, dependents, and survivors

For the purposes of laws providing pay and benefits for members of the armed forces and their dependents and beneficiaries:

(1) Military training, duty, or other service performed by a member of the Space Force in a space force active status not on sustained duty shall be considered military training, duty, or other service, as the case may be, as a member of a reserve component.

(2) Sustained duty performed by a member of the Space Force under section 20105 of this title shall be considered active duty as a member of a regular component.

(3) Active duty performed by a member of the Space Force in a space force active status not on sustained duty shall be considered active duty as a member of a reserve component.

(4) Inactive-duty training performed by a member of the Space Force shall be considered inactive-duty training as a member of a reserve component.

§20109. Policy for order to active duty based upon determination by Congress

Whenever Congress determines that more units and organizations capable of conducting space operations are needed for the national security than are available among those units

comprised of members of the Space Force serving on active duty, members of the Space Force not serving on active duty shall be ordered to active duty and retained as long as so needed.

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SUBCHAPTER I—ORIGINAL APPOINTMENTS

§20201. Original appointments: how made

(a) APPOINTMENTS MADE BY SECRETARY OF DEFENSE.—Original appointments of commissioned officers in the Space Force in grades below the grade of brigadier general shall be made by the Secretary of Defense.

(b) APPLICATION OF CONSTRUCTIVE CREDIT.—The grade of a person receiving an appointment under this section who at the time of appointment is credited with service under section 20203 of this title shall be determined under regulations prescribed by the Secretary of the Defense based upon the amount of service credited.

§20202. Original appointments: qualifications

(a) IN GENERAL.—An original appointment as a commissioned officer in the Space Force may be given only to a person who—

(1) is a citizen of the United States;

(2) is at least 18 years of age; and

(3) has such other physical, mental, moral, professional, and age qualifications as the Secretary of the Air Force may prescribe by regulation.

(b) EXCEPTION.—A person who is otherwise qualified, but who has a physical condition that the Secretary of the Air Force determines will not interfere with the performance of the duties to which that person may be assigned, may be appointed as an officer in the Space Force.

§20203. Original appointments: service credit

(a) CREDIT FOR PRIOR SERVICE.—

(1) PRIOR COMMISSIONED SERVICE.—For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade in the 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 the person performed in any uniformed service before such appointment.

(2) PRIOR CIVILIAN SERVICE.—For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade in the Space Force, such person may be credited at the time of such appointment with service as a civilian employee of a Federal agency in an occupation code or career field related to the skills and experience required for officers of the Space Force. The Secretary of the Air Force shall prescribe regulations establishing which civilian employee occupation codes and career fields may be considered as related to the skills and experience required for officers of the Space Force.

(3) LIMITATION ON AMOUNT OF PRIOR COMMISSIONED SERVICE THAT MAY BE CREDITED.—The regulations prescribed by the Secretary of Defense under section 533 of this title shall apply to the Space Force to authorize the Secretary of the Air Force to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1).

(b) CREDIT FOR EDUCATION, TRAINING, AND EXPERIENCE.—

(1) Under regulations prescribed by the Secretary of the Air Force, the Secretary shall credit a person who is receiving an original appointment in a commissioned grade in the Space Force and who has advanced education, training, or special experience with constructive service for such education, training, or experience in a particular officer career field as designated by the Secretary of the Air Force, if such education, training, or experience is directly related to the operational needs of the Space Force.

(2) The Secretary may credit a person with constructive credit under this subsection for each instance of relevant advanced education or training or special experience regardless of whether two or more such instances are concurrent.

(3) 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.

(4) 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.

(c) AUTHORIZED USE OF CONSTRUCTIVE CREDIT.—Constructive service credited an officer under subsection (b) shall be used only for determining the officer's—

(1) initial grade;

- (2) rank in grade; and
- (3) service in grade for promotion eligibility.

(d) EXCLUSION FOR GRADUATES OF THE SERVICE ACADEMIES.—A graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Academy.

SUBCHAPTER II—SELECTION BOARDS

§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) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(c) SECTION 20403 SELECTION BOARDS.—The Secretary of the Air Force may convene selection boards to recommend officers for early retirement under section 20403(a) of this title or for discharge under section 20403(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) Members of a selection board shall be appointed by the Secretary of 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 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 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.

§20213. Notice of convening of selection boards

(a) At least 30 days before a selection board is convened under section 20211 of this title to recommend officers in a grade for promotion to the next higher grade, the Secretary of the Air Force shall provide to the officers who are eligible for consideration by the board and have not been excluded from consideration under section 20231(d) of this title notification in writing of the date on which the board is to convene. In the notification, the Secretary shall inform an eligible officer of how many times, if any, the officer has previously been considered by a selection board convened under section 20211 for promotion to the grade to which the board described in the notification will recommend officers for promotion.

(b) An officer eligible for consideration by a selection board convened under section 20211 of this title (other than an officer who has been excluded under 20231(d) of this title from consideration by the board) may send a written communication to the board, to arrive not later than 10 calendar days before the date on which the board convenes, calling attention to any

matter concerning the officer that the officer considers important to the officer's case. The selection board shall give consideration to any timely communication under this subsection.

(c) An officer on the space force officer list in the grade of colonel or brigadier general who receives a notice under subsection (a) shall inform the Secretary of the officer's preference to serve either on or off active duty if promoted to the grade of brigadier general or major general, respectively.

§20214. Recommendations for promotion by selection boards

(a) BOARD TO RECOMMEND OFFICERS BEST QUALIFIED FOR PROMOTION.—A selection board convened under section 20211 of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the Space Force for officers with particular skills (as noted in the guidelines or information furnished the board under section 615(b) of this title), considers best qualified for promotion within each competitive category considered by the board.

(b) NUMBER TO BE RECOMMENDED.—The Secretary of the Air Force shall establish the number of officers such a selection board may recommend for promotion from among officers being considered.

(c) BOARD PROCEDURES FOR RECOMMENDATIONS; LIMITATIONS.—A selection board convened under section 20211 of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the Space Force consistent with the requirement of exemplary conduct set forth in section 9233 of this title.

(d) LIMITATION ON PROMOTIONS UNDER OTHER AUTHORITY.—Except as otherwise provided by law, a Space Force officer may not be promoted to a higher grade under this chapter unless the officer is considered and recommended for promotion to that grade by a selection board convened under this chapter or, in the case of an officer transferring into the Space Force from another armed force, chapter 36 or chapter 1403 of this title.

(e) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a selection board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary of the Air Force to assist the board) until the written report of the recommendations of the board, required by section 617 of this title, is signed by each member of the board.

(f) PROHIBITION ON ATTEMPTING TO INFLUENCE MEMBERS OF A BOARD.—The Secretary of the Air Force, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a selection board or any member of a selection board in the formulation of the board's recommendations.

(f) HIGHER PLACEMENT ON PROMOTION LIST OF OFFICER OF PARTICULAR MERIT.—

(1) In selecting the officers to be recommended for promotion, a selection board shall, when authorized by the Secretary of the Air Force, recommend officers of particular merit, pursuant to guidelines and procedures prescribed by the Secretary, from among those officers selected for promotion, to be placed higher on the promotion list established by the Secretary under section 624(a)(1) of this title.

(2) An officer may be recommended to be placed higher on a promotion list under paragraph (1) only if the officer receives the recommendation of at least a majority of the members of the board, unless the Secretary of the Air Force establishes an alternative requirement. Any such alternative requirement shall be furnished to the board as part of the guidelines furnished to the board under section 615 of this title.

(3) For the officers recommended to be placed higher on a promotion list under paragraph (1), the board shall recommend, pursuant to guidelines and procedures prescribed by the Secretary, the order in which those officers should be placed on the list.

§20215. 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 20409(f) 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.

20216. Action on reports of selection boards for promotion to brigadier general or major general

After reviewing a report received under section 20410 of this title recommending officers on the space force officer list for promotion to the grade of brigadier general or major general, but before submitting the report to the Secretary of Defense, the Secretary of the Air Force may, under regulations prescribed by the Secretary of the Air Force, adjust the placement of officers on the promotion list recommended in the report in order to further Space Force mission accomplishment.

SUBCHAPTER III—PROMOTIONS

§20231. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—

(1) An officer who is in a space force active status on the space force officer list and holds a permanent appointment in the grade of second lieutenant or first lieutenant may not be promoted to the next higher permanent grade until the officer has completed the following period of service in the grade in which the officer holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant.

(2) Except as authorized by section 20233 of this title, an officer who is in a space force active status on the space force officer list and holds a permanent appointment in a grade above first lieutenant may not be considered for selection for promotion to the next higher permanent grade until the officer has completed the following period of service in the grade in which the officer holds a permanent appointment:

(A) Three years, in the case of an officer holding a permanent appointment in the grade of captain, major, or lieutenant colonel.

(B) One year, in the case of an officer holding a permanent appointment in the grade of colonel or brigadier general.

(3) When the needs of the service require, the Secretary of the Air Force may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

(4) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

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

(1) 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

(2) may, by regulation, preclude from consideration by a selection board by which the officer would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date on which the board is to be convened.

(c) 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 the officer's selection for promotion to that grade by an earlier selection board convened under that section.

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

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

(4) An officer excluded under subsection (d).

(d) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—

(1) The Secretary of the Air Force may provide that an officer on the space force officer list may, upon the officer's request and with the approval of the Secretary, be

excluded from consideration by a selection board convened under section 20211 of this title to consider officers for promotion to the next higher grade.

(2) The Secretary of the Air Force may only approve a request under paragraph (1) if the Secretary determines the exclusion from consideration is in the best interest of the Space Force.

§20232. Eligibility for consideration for promotion: senior commander nominations

(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Air Force and subject to subsection (b), a board convened under section 20211 of this title may consider for promotion to the next higher grade an officer in a space force active status on the space force officer list in the grade of captain, major, or lieutenant colonel who—

(1) does not meet the requirements of section 20412 of this title with respect to time-in-grade; or

(2) has already been considered for promotion by a selection board convened under section 20211 of this title the maximum number of times as determined by the Secretary under section 20415 of this title and has failed of selection for promotion each time.

(b) NOMINATION REQUIRED.—The regulations prescribed under subsection (a) shall require that, in order for an officer described in that subsection to be considered for promotion by a board convened under section 20211 of this title, the officer must be nominated by the commanding general of the Space Force Field Command to which the officer is assigned or, in the case of an officer on the space force officer list not assigned to a unit subordinate to a Space Force Field Command, the first lieutenant general, or civilian equivalent, in the officer's chain of command or supervision. For an officer on the space force officer list assigned to a joint position, or a position within a Federal department or agency outside of the Department of the Air Force, the nomination may be made by a lieutenant general in the Army, Air Force, or Marine Corps or a vice admiral in the Navy, or the civilian equivalent.

(c) NOMINATION.—

(1) The regulations prescribed under subsection (a) shall establish clear, competency-based criteria for use by the nominating officer or official in determining whether an officer described in subsection (a) should be nominated for consideration for promotion.

(2) An officer on the space force officer list may only be nominated under this section if (A) the officer is not eligible for consideration for promotion by a selection board convened under section 20211 of this title, and (B) the officer has not twice previously been promoted to a higher grade on the space force officer list under this section.

(3) A nomination under this section shall be submitted to the Chief Human Capital Officer of the Space Force and shall provide sufficient information and justification for the opinion of the nominating officer that the nominated officer meets the requisite competency-based requirements for service in a higher grade and is exceptionally well qualified for promotion despite not meeting the eligibility requirements for consideration for promotion under section 20412 of this title.

§20233. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to brigadier general; exceptions

(a) GENERAL RULE.—An officer on the space force officer list may not be appointed to the grade of brigadier general unless the officer has been designated as a joint qualified officer in accordance with section 661 of this title.

(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

(1) When necessary for the good of the service.

(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(3) In the case of an officer selected by a promotion board for appointment to the grade of brigadier general while serving in a joint duty assignment if—

(A) the officer's total consecutive service in joint duty assignments is not less than two years; and

(B) the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title.

(4) In the case of an officer who—

(A) is selected by a promotion board for appointment to the grade of brigadier general;

(B) is not exempted under subsection (g); and

(C) has successfully completed the education requirements prescribed in subparagraph (A) of section 661(c)(1) of this title but has not been afforded the opportunity to complete the experience requirements described in subparagraph (B) of that section.

(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary shall provide that the first duty assignment as a general or flag officer of the officer for whom the waiver is granted shall be in a joint duty assignment.

(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the Secretary of Defense to grant a waiver under subsection (b)(4) may be delegated to the Secretary of the Air Force and may not be further delegated.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to brigadier general is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(g) EXEMPTION.—Subsection (a) shall not apply to an officer who transfers to the Space Force from a reserve component before the first day of the fifth fiscal year beginning after the date of the enactment of this section, and who, as of the date of the transfer, is serving in the grade of major, lieutenant colonel, or colonel or, in the case of the Navy or Coast Guard, lieutenant commander, commander, or captain.

§20234. Opportunities for consideration for promotion

(a) SPECIFICATION OF NUMBER OF OPPORTUNITIES FOR CONSIDERATION FOR PROMOTION.—Under regulations prescribed by the Secretary of Defense, 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) LIMITATION ON NUMBER OF OPPORTUNITIES THAT MAY BE SPECIFIED.—The number of opportunities for consideration for promotion to be afforded officers of the Space Force for promotion to a particular grade may not be fewer than two and may not exceed five.

(c) LIMITED AUTHORITY OF SECRETARY OF THE AIR FORCE TO MODIFY NUMBER OF OPPORTUNITIES.—The Secretary of the Air Force may change the number of opportunities for consideration for promotion to a particular grade not more frequently than once every five years.

(d) 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 for promotion to a particular grade.

§20235. Space force officer list

(a) SINGLE LIST.—The Secretary of the Air Force shall maintain a single list of all Space Force officers serving in a space force active status. The list shall be known as the space force officer list.

(b) ORDER OF OFFICERS ON LIST.—Officers shall be carried on the space force officer list in the order of seniority of the grade in which they are serving. Officers serving in the same grade shall be carried in the order of their rank in that grade.

(c) EFFECT OF SERVICE IN A TEMPORARY APPOINTMENT.—An officer whose position on the space force officer list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on the space force officer list that the officer would have held if the officer had not received that appointment or assignment.

§20236. Competitive categories

(a) REQUIREMENT TO ESTABLISH COMPETITIVE CATEGORIES FOR PROMOTION.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall establish at least one competitive category for promotion for officers on the space force officer list. Each officer whose name appears on the space force officer list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

(b) SINGLE COMPETITIVE CATEGORY FOR PROMOTION TO GENERAL OFFICER GRADES.—The Secretary of the Air Force shall establish a single competitive category for all officers on the space force officer list who will be considered by a selection board convened under section 20211 of this title for promotion to the grade of brigadier general or major general.

§20237. Numbers to be recommended for promotion

(a) PROMOTION TO GRADES BELOW BRIGADIER GENERAL.—

(1) Before convening a selection board under section 20211 of this title to consider officers for recommendation for promotion to a grade below brigadier general and in any competitive category, the Secretary of the Air Force shall determine—

(A) the number of positions needed to accomplish mission objectives which require officers of that competitive category in the grade to which the board will recommend officers for promotion;

(B) the estimated number of officers needed to fill vacancies in those positions during the period in which it is anticipated that officers selected for promotion will be promoted; and

(C) the number of officers in a space force active status authorized by the Secretary of the Air Force to serve both on sustained duty and not on sustained duty in the grade and competitive category under consideration.

(2) Based on the determinations under paragraph (1), the Secretary of the Air Force shall determine the maximum number of officers in that competitive category which the selection board may recommend for promotion.

(b) PROMOTION TO BRIGADIER GENERAL AND MAJOR GENERAL.—

(1) Before convening a selection board under section 20211 of this title to consider officers for recommendation for promotion to the grade of brigadier general or major general, the Secretary of the Air Force shall determine—

(A) the number of positions needed to accomplish mission objectives which require officers serving in a space force active status on sustained duty, and in a space force active status not on sustained duty, in the grade to which the board will recommend officers for promotion; and

(B) the estimated number of officers on sustained duty and not on sustained duty needed to fill vacancies in those positions over the 24-month period beginning on the date on which the selection board convenes.

(2) Based on the determinations under paragraph (1), the Secretary of the Air Force shall determine the maximum number of officers serving in a space force active status on sustained duty, and the maximum number of officers serving in a space force active status not on sustained duty, which the selection board may recommend for promotion.

§20238. Promotions: how made; authorized delay of promotions

(a) PROCEDURE FOR PROMOTION OF OFFICERS ON AN APPROVED PROMOTION LIST.—

(1) PLACEMENT OF NAMES ON PROMOTION LIST.—When the report of a selection board convened under section 20211 of this title is approved by the President, the Secretary of the Air Force shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the list or based on particular merit, as determined by the promotion board, or as modified by the Secretary of the Air Force under section 20216 of this title. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.

(2) ORDER AND TIMING OF PROMOTIONS.—Except as provided in subsection (d), officers on a promotion list for a competitive category shall be promoted to the next higher grade when additional officers in that grade and competitive category are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted. Officers to be promoted to the grade of first lieutenant shall be promoted in accordance with regulations prescribed by the Secretary of the Air Force.

(3) LIMITATION ON 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.

(4) PROMOTION OF FIRST LIEUTENANTS ON AN ALL-FULLY-QUALIFIED OFFICERS LIST.—

(A) Except as provided in subsection (d), 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.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) 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.

(C) 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.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the space force officers list in a grade who the Secretary of the Air Force determines—

- (i) are fully qualified for promotion to the next higher grade; and
- (ii) 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.

(E) 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 paragraph 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 paragraph.

(b) DATE OF RANK.—The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

(c) APPOINTMENT AUTHORITY.—Appointments under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments under this section in the grade of first lieutenant or captain shall be made by the President alone.

(d) AUTHORITY TO DELAY APPOINTMENTS FOR SPECIFIED REASONS.—The provisions of subsection (d) of section 624 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 subsection to an active-duty list shall be treated for purposes of applicability to an officer of the Space Force as referring to the space force officer list.

SUBCHAPTER IV—PERSONS NOT CONSIDERED FOR PROMOTION AND OTHER PROMOTION-RELATED PROVISIONS

§20251. Special selection boards

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARD DUE TO ADMINISTRATIVE ERROR.—

(1) If the Secretary of the Air Force determines that because of administrative error a person who should have been considered for selection for promotion by a selection board convened under section 20211 of this title was not so considered, the Secretary shall convene a special selection board under this subsection to determine whether that person should be recommended for promotion.

(2) A special selection board convened under paragraph (1) shall consider the record of the person whose name was referred to it for consideration as that record would have appeared to the board that should have considered the person. That record shall be compared with a sampling of the records of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that should have considered the person.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer grade, the person shall be considered to have failed of selection for promotion.

(b) PERSONS CONSIDERED BY PROMOTION BOARD IN UNFAIR MANNER.—

(1) If the Secretary of the Air Force determines, in the case of a person who was considered for selection for promotion by a board convened under section 20211 of this title but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

(A) the action of the selection board that considered the person 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) A special selection board convened under paragraph (1) shall consider the record of the person whose name was referred to it for consideration as that record, if corrected, would have appeared to the board that considered the person. That record shall be compared with the records of a sampling of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that considered the person.

(3) If a special selection board convened under paragraph (1) does not recommend for promotion a person whose name was referred to it for consideration, the person incurs no additional failure of selection for promotion.

(c) REPORTS OF BOARDS.—

(1) 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 person it recommends for promotion and certifying that the board has carefully considered the record of each person whose name was referred to it.

(2) 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.

(d) APPOINTMENT OF PERSONS SELECTED BY BOARDS.—

(1) 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 a person whose name was referred to it for consideration, that person shall, as soon as practicable, be appointed to that grade in accordance with subsections (b), (c), and (d) of section 20238 of this title.

(2) A person who is appointed to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon that appointment, 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 person would have had if the person had been recommended for promotion to that grade by the board which should have considered, or which did consider, the person.

(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a special selection board under this section dies before the completion of proceedings under this section with respect to that person, this section shall be applied to that person posthumously.

(f) 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.

(g) JUDICIAL REVIEW.—The provisions of subsection (g) of section 628 of this title (relating to judicial review) apply to the following actions with respect of any person in the same manner as those provisions apply to corresponding actions under such section 628 with respect to an officer or former officer of the Air Force:

(1) A determination by the Secretary of the Air Force under subsection (a)(1) or (b)(1) not to convene a special selection board.

(2) The action of a special selection board convened under this section.

(3) An action of the Secretary of the Air Force on the report of such a board.

(h) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States may, with respect to a claim based to any extent on the failure of a person to be selected for promotion by a promotion board—

(1) consider the claim unless the person has first been referred by the Secretary of the Air Force to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

(2) except as provided in subsection (g), grant any relief on the claim unless the person has been selected for promotion by a special selection board convened under this section to consider the person for recommendation for promotion and the report of the board has been approved by the President.

(i) EXISTING JURISDICTION.—Nothing in this section limits—

(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

(2) the authority of the Secretary of the Air Force to correct a military record under section 1552 of this title.

(j) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Air Force shall prescribe regulations to carry out this section.

(2) EXCLUSION.—Regulations under this subsection may not apply to subsection (g) of section 628 of this title (as incorporated by subsection (g) of this section), other than to paragraph (3)(C) of that subsection.

(3) PRESCRIBING OF CIRCUMSTANCES FOR CONSIDERATION BY A BOARD UNDER THIS SECTION.—The Secretary may prescribe in the regulations under this subsection the circumstances under which consideration by a special selection board may be provided for under this section, including the following:

(A) The circumstances under which consideration of a person's case by a special selection board is contingent upon application by or for that person.

(B) Any time limits applicable to the filing of an application for such consideration.

(4) REGULATIONS SUBJECT TO SECRETARY OF DEFENSE APPROVAL.—Regulations prescribed by the Secretary of the Air Force under this subsection may not take effect until approved by the Secretary of Defense.

§20252. Other promotion matters

(a) SPECIAL SELECTION BOARD MATTERS. — The reference in section 628(a)(1) of this title to a person above the promotion zone does not apply in the promotion of officers on the space force officer list.

(b) With respect to the promotion of officers on the space force officer list, the provisions of part II of subtitle A that refer to the effect of twice failing of selection for promotion do not apply.

SUBCHAPTER V—APPLICABILITY OF OTHER LAWS

§20261. Applicability of certain DOPMA officer personnel policy provisions

Except as otherwise modified or provided for in this chapter, the following provisions of chapter 36 of this title (relating to promotion, separation, and involuntary retirement of officers on the active-duty list) shall apply to Space Force officers and officer promotions:

(1) Subchapter I (relating to selection boards).

(2) Subchapter II (relating to promotions).

(3) Subchapter III (relating to failure of selection for promotion and retirement for years of service), other than sections 627, 631, and 632.

(4) Subchapter IV (relating to continuation on active duty and selective early retirement), other than sections 637, 637a, and 638.

(5) Subchapter V (additional provisions relating to promotion, separation, and retirement).

(6) Subchapter VI (relating to alternative promotion authority for officers in designated competitive categories).

CHAPTER 2007—ENLISTED MEMBERS

Sec.

20301. Original enlistments: qualifications; grade.

20302. Enlisted members: term of enlistment.

20303. Reference to chapter 31.

§20301. Original enlistments: qualifications; grade

(a) ORIGINAL ENLISTMENTS.—

(1) AUTHORITY TO ACCEPT.—The Secretary of the Air Force may accept original enlistments in the Space Force of qualified, effective, and able-bodied persons.

(2) AGE.—A person accepted for original enlistment shall be not less than seventeen years of age. However, no person under eighteen years of age may be originally enlisted without the written consent of the person's parent or guardian, if the person has a parent or guardian entitled to the person's custody and control.

(b) GRADE.—A person is enlisted in the Space Force in the grade prescribed by the Secretary of the Air Force.

§20302. Enlisted members: term of enlistment

(a) TERM OF ORIGINAL ENLISTMENTS.—The Secretary of the Air Force may accept original enlistments of persons for the duration of their minority or for a period of at least two but not more than eight years in the Space Force.

(b) TERM OF REENLISTMENTS.—The Secretary of the Air Force may accept a reenlistment in the Space Force for a period determined in accordance with paragraphs (2), (3), and (4) of section 505(d) of this title.

§20303. Reference to chapter 31

For other provisions of this title applicable to enlistments in the Space Force, see chapter 31 of this title.

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. Transfer of excess points for a year to previous or subsequent year.

20405. Selection of officers for early retirement or discharge.

20406. Force shaping authority.

§ 20401. Applicability of certain provisions of law related to separation

(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) 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.

§20402. Enlisted members: standards and qualifications for retention

(a) STANDARDS AND QUALIFICATIONS FOR RETENTION.—The Secretary of the Air Force shall, by regulation, prescribe—

(1) standards and qualifications for the retention of enlisted members of the Space Force; and

(2) equitable procedures for the periodic determination of the compliance of each such member with those standards and qualifications.

(b) EFFECT OF FAILURE TO COMPLY WITH STANDARDS AND QUALIFICATIONS.—If an enlisted member serving in Space Force active status fails to comply with the standards and qualifications prescribed under subsection (a), the member shall—

- (1) if qualified, be transferred to Space Force inactive status;
- (2) if qualified, be retired in accordance with section 20603 of this title; or
- (3) have the member's enlistment terminated.

§20403. Officers: standards and qualifications for retention

(a) STANDARDS AND QUALIFICATIONS.—To be retained in an active status, a Space Force officer—

(1) must, in any applicable yearly period, attain the number of points under section 12732(a)(2) of this title that are prescribed by the Secretary of the Air Force in accordance with regulations prescribed under subsection (c); and

(2) must conform to such other standards and qualifications as the Secretary may prescribe for officers of the Space Force.

(b) LIMITATION ON NUMBER OF MINIMUM POINTS.—The Secretary may not prescribe a minimum of more than 50 points under subsection (a).

(c) RESULT OF FAILURE TO COMPLY.—A Space Force officer who fails to attain the number of points prescribed under subsection (a)(1), or to conform to the standards and qualifications prescribed under subsection (a)(2), may be referred to a board convened under section 20501(a) of this title.

§20404. Transfer of excess points for a year to previous or subsequent year

(a) AUTHORITY TO TRANSFER POINTS TO MEET RETENTION REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), a member of the Space Force may transfer points earned in a year that are in excess of the applicable minimum number of points prescribed by the Secretary of the Air Force from the year in which the points were earned to either the previous year or the subsequent year for the purpose of meeting the minimum number of points required for the year to which the points are transferred.

(2) APPLICABLE MINIMUM NUMBER OF POINTS.—For purposes of paragraph (1), the applicable minimum number of points—

(A) in the case of an enlisted member, is the number of points (if any) specified in the standards and qualifications prescribed by the Secretary under section 20402(a)(1) of this title; and

(B) in the case of an officer, is the number of points prescribed under section 20403(a)(1) of this title.

(3) TRANSFER PURSUANT TO REGULATIONS.—Points may be transferred under paragraph (1) only as authorized under regulations prescribed by the Secretary of the Air Force.

(4) CREDITING OF TRANSFERRED POINTS.—Points transferred under paragraph (1) shall be credited to the year to which transferred and not to the year from which transferred.

(b) CREDITING TRANSFERRED POINTS FOR QUALIFYING “GOOD YEARS” OF CREDITABLE SERVICE FOR RETIREMENT.—For purposes of determining whether a member of the Space Force is entitled to retired pay under section 12731 of this title, points transferred by the member under subsection (a) shall be credited to the member under section 12732(a)(2) of this title for the applicable one-year period to which the points were transferred (rather than the one-year in which the points were originally credited).

§20405. Selection of officers for early retirement or discharge

(a) CONSIDERATION FOR EARLY RETIREMENT.—The Secretary of the Air Force may convene selection boards under section 20211(b) of this title to consider for early retirement officers on the space force officer list as follows:

(1) Officers in the grade of lieutenant colonel who have failed of selection for promotion at least one time and whose names are not on a list of officers recommended for promotion.

(2) Officers in the grade of colonel who have served in that grade for at least two years and whose names are not on a list of officers recommended for promotion.

(3) Officers, other than those described in paragraphs (1) and (2), holding a grade below the grade of colonel—

(A) who are eligible for retirement under section 20601 of this title or who after two additional years or less of active service would be eligible for retirement under that section; and

(B) whose names are not on a list of officers recommended for promotion.

(b) CONSIDERATION FOR DISCHARGE.—

(1) The Secretary of the Air Force may convene selection boards under section 20211 of this title to consider for discharge officers on the space force officer list —

(A) who have served at least one year of active status in the grade currently held;

(B) whose names are not on a list of officers recommended for promotion; and

(C) who are not eligible to be retired under any provision of law (other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993) and are not within two years of becoming so eligible.

(2) An officer who is recommended for discharge by a selection board convened pursuant to the authority of paragraph (1) and whose discharge is approved by the Secretary of the Air Force shall be discharged on a date specified by the Secretary.

(3) Selection of officers for discharge under paragraph (1) shall be based on the needs of the service.

(c) DISCHARGES AND RETIREMENTS CONSIDERED TO BE INVOLUNTARY.—The discharge or retirement of an officer pursuant to this section shall be considered to be involuntary for purposes of any other provision of law.

§20406. Force shaping authority

(a) AUTHORITY.—The Secretary of the Air Force may, solely for the purpose of restructuring the Space Force—

(1) discharge an officer described in subsection (b); or

(2) involuntarily release such an officer from sustained duty.

(b) COVERED OFFICERS.—

(1) The authority under this section may be exercised in the case of an officer of the Space Force serving on sustained duty who—

(A) has completed not more than six years of service as a commissioned officer in the armed forces; or

(B) has completed more than six years of service as a commissioned officer in the armed forces, but has not completed the minimum service obligation applicable to that officer.

(2) In this subsection, the term ‘minimum service obligation’, with respect to a member of the Space Force, means the initial period of required active duty service applicable to the member, together with any additional period of required active duty service incurred by that member during the member’s initial period of required active duty service.

(c) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations for the exercise of the Secretary's authority under this section.

CHAPTER 2011—SEPARATION OF OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

Sec.

20501. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons.

20502. Retention boards.

20503. Removal of officer: action by Secretary upon recommendation of retention board.

20504. Rights and procedures.

20505. Officer considered for removal: voluntary retirement or discharge.

20506. Officers eligible to serve on retention boards.

§20501. Authority to establish procedures to consider the separation of officers for substandard performance of duties and for certain other reasons

(a) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO STANDARDS OF PERFORMANCE OF DUTY.—

(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a retired officer) of the Space Force in a space force active status to determine whether the officer shall be required, because of a reason stated in paragraph (2), to show cause for the officer’s retention in a space force active status.

(2) The reasons referred to in paragraph (1) are the following:

(A) The officer’s performance of duty has fallen below standards prescribed by the Secretary of Defense.

(B) The officer has failed to satisfy the standards and qualifications established under section 20402 of this title by the Secretary of the Air Force.

(b) PROCEDURES FOR REVIEW OF RECORD OF OFFICERS RELATING TO CERTAIN OTHER REASONS.—

(1) The Secretary of the Air Force shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a retired officer) of the Space Force in a space force active status to determine whether the officer should be required, because of a reason stated in paragraph (2), to show cause for the officer’s retention in a space force active status.

(2) The reasons referred to in paragraph (1) are the following:

(A) Misconduct.

(B) Moral or professional dereliction.

(C) The officer’s retention is not clearly consistent with the interests of national security.

(c) SECRETARY OF DEFENSE LIMITATIONS.—Regulations prescribed by the Secretary of the Air Force under this section are subject to such limitations as the Secretary of Defense may prescribe.

§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 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 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.

§20503. Removal of officer: action by Secretary upon recommendation of retention board

The Secretary of the Air Force may remove an officer from space force active status if the removal of such officer from space force active status is recommended by a retention board convened under section 20502 of this title.

§20504. Rights and procedures

(a) IN GENERAL.—Under regulations prescribed by the Secretary of the Air Force, each officer required under section 20501 of this title to show cause for retention in a space force active status—

(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a retention board, of the reasons for which the officer is being required to show cause for retention in a space force active status;

(2) shall be allowed a reasonable time, as determined by the board, to prepare the officer's showing of cause for retention in a space force active status;

(3) shall be allowed to appear either in person or through electronic means and to be represented by counsel at proceedings before the board; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the officer's case, except that the board shall withhold any record that the Secretary determines should be withheld in the interest of national security.

(b) SUMMARY OF RECORDS WITHHELD IN INTEREST OF NATIONAL SECURITY.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

§20506. Officer considered for removal: voluntary retirement or discharge

(a) IN GENERAL.—At any time during proceedings under this chapter with respect to the removal of an officer from a space force active status, the Secretary of the Air Force may grant a request by the officer—

(1) for voluntary retirement, if the officer is qualified for retirement; or

(2) for discharge in accordance with subsection (b)(2).

(b) RETIREMENT OR DISCHARGE.—An officer removed from a space force active status under section 20503 of this title shall—

(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which the officer would be eligible if retired under such provision; and

(2) if ineligible for voluntary retirement under any provision of law on the date of such removal—

(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 20501 of this title; or

(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 20501 of this title.

(c) SEPARATION PAY FOR DISCHARGED OFFICER.—An officer who is discharged under subsection (b)(2) is entitled, if eligible therefor, to separation pay under section 1174(a)(2) of this title.

§20506. Officers eligible to serve on retention boards

(a) IN GENERAL.—The provisions of section 1187 of this title apply to the membership of boards convened under this chapter in the same manner as to the membership of boards convened under chapter 60 of this title.

(b) RETIRED AIR FORCE OFFICERS.—

(1) AUTHORITY.—In applying subsection (b) of section 1187 of this title to a board convened under this chapter, the Secretary of the Air Force may appoint retired officers of the Air Force, in addition to retired officers of the Space Force, to complete the membership of the board.

(2) LIMITATION.—A retired officer of the Air Force may be appointed to a board under paragraph (1) only if the officer served 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.

CHAPTER 2013—VOLUNTARY RETIREMENT FOR LENGTH OF SERVICE

Sec.

20601. Officers: voluntary retirement for length of service.

20602. Officers: computation of years of service for voluntary retirement.

20603. Enlisted members: voluntary retirement for length of service.

20604. Enlisted members: computation of years of service for voluntary retirement.

20605. Applicability of other provisions of law relating to retirement.

§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.

§20602. Officers: computation of years of service for voluntary retirement

(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an officer of the Space Force may be retired under section 20601 of this title, the officer's years of service are computed by adding all active service in the armed forces.

(b) REFERENCE TO SECTION EXCLUDING SERVICE DURING CERTAIN PERIODS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

§20603. Enlisted members: voluntary retirement for length of service

(a) TWENTY TO THIRTY YEARS.—Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Space Force who has at least 20, but less than 30, years of service computed under section 20604 of this title may, upon the member’s request, be retired.

(b) THIRTY YEARS OR MORE.—An enlisted member of the Space Force who has at least 30 years of service computed under section 20604 of this title shall be retired upon the member’s request.

§20604. Enlisted members: computation of years of service for voluntary retirement

(a) YEARS OF ACTIVE SERVICE.—For the purpose of determining whether an enlisted member of the Space Force may be retired under section 20603 of this title, the member’s years of service are computed by adding all active service in the armed forces.

(b) REFERENCE TO SECTION EXCLUDING COUNTING OF CERTAIN SERVICE REQUIRED TO BE MADE UP.—Time required to be made up under section 972(a) of this title may not be counted in computing years of service under subsection (a).

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§20605. Applicability of other provisions of law relating to retirement

(a) APPLICABILITY TO MEMBERS OF THE SPACE FORCE.—Except as specifically provided for by this chapter, the provisions of this title specified in subsection (b) apply to members of the Space Force as follows:

(1) Provisions pertaining to an officer of the Air Force shall apply to an officer of the Space Force.

(2) Provisions pertaining to an enlisted member of the Air Force shall apply to an enlisted member of the Space Force.

(3) Provisions pertaining to a regular officer shall apply to an officer who is on sustained duty in the Space Force.

(4) Provisions pertaining to a regular enlisted member shall apply to an enlisted member who is on sustained duty in the Space Force.

(5) Provisions pertaining to a reserve officer shall apply to an officer who is in a space force active status but not on sustained duty.

(6) Provisions pertaining to a reserve enlisted member shall apply to an enlisted member who is in a space force active status but not on sustained duty.

(7) Provisions pertaining to service in a regular component shall apply to service on sustained duty.

(8) Provisions pertaining to service in a reserve component shall apply to service in a space force active status not on sustained duty.

(9) Provisions pertaining to a member of the Ready Reserve shall apply to a member of the Space Force who is in a space force active status prior to being ordered to active duty.

(10) Provisions pertaining to a member of the Retired Reserve shall apply to a member of the Space Force who has retired under chapter 1223 of this title.

(b) PROVISIONS OF LAW.—The provisions of this title referred to in subsection (a) are the following:

(1) Chapter 61, relating to retirement or separation for physical disability.

(2) Chapter 63, relating to retirement for age.

(3) Chapter 69, relating to retired grade.

(4) Chapter 71, relating to computation of retired pay.

(5) Chapter 941, relating to retirement from the Air Force for length of service.

(6) Chapter 945, relating to computation of retired pay.

(7) Chapter 1223, relating to retired pay for non-regular service.

TITLE 5, UNITED STATES CODE

CHAPTER 63-LEAVE

SUBCHAPTER II-OTHER PAID LEAVE

§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 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, 333,¹ 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.

(c) ***

(d) ***

TITLE 18, UNITED STATES CODE

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

§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(e) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(e) 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.

§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) ***

(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.

TRADE ACT OF 1974
(19 U.S.C. 2201 et seq.)

SEC. 233 [19 U.S.C. 2293]. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) ***

(i) SPECIAL RULE WITH RESPECT TO MILITARY SERVICE.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary may waive any requirement of this chapter that the Secretary determines is necessary to ensure that an adversely affected worker who is a member of a reserve component of the Armed Forces, or a member of the Space Force, and serves a period of duty described in paragraph (2) is eligible to receive a trade readjustment allowance, training, and other benefits under this chapter in the same manner and to the same extent as if the worker had not served the period of duty.

(2) PERIOD OF DUTY DESCRIBED.—An adversely affected worker serves a period of duty described in this paragraph if, before completing training under section 236, the worker—

(A) serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

TITLE 28, UNITED STATES CODE

§ 631. Appointment and tenure

(a) ***
* * * * *

(c) A magistrate judge may hold no other civil or military office or employment under the United States: *Provided, however,* That, with the approval of the conference, a part-time referee in bankruptcy or a clerk or deputy clerk of a court of the United States may be appointed and serve as a part-time United States magistrate judge, but the conference shall fix the aggregate amount of compensation to be received for performing the duties of part-time magistrate judge and part-time referee in bankruptcy, clerk or deputy clerk: *And provided further,* That retired officers and retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, members of the Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard. members of the Space Force, and members of the Army National Guard of the United States, the Air National Guard of the United States, and the Naval Militia and of the National Guard of a State, territory, or the District of Columbia, except the National Guard disbursing officers who are on a full-time salary basis, may be appointed and serve as United States magistrate judges.

* * * * *

TITLE 38, UNITED STATES CODE

§ 101. Definitions

For the purposes of this title:

(1) The terms “Secretary” and “Department” mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.

(2) The term “veteran” means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) ***

(23) The term “inactive duty training” means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service), or for members of the Space Force in a space force active status (as defined in section 101(e)(1) of title 10), by the Secretary concerned under section 206 of title 37 or any other provision of law;

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service), or for members of the Space Force in a space force active status (as defined in section 101(e)(1) of title 10), by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers’ Training Corps prescribed under chapter 103 of title 10.

(D) In the case of a member of the Army National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

* * * * *

- (27) The term “reserve component” means, with respect to the Armed Forces—
- (A) the Army Reserve;
 - (B) the Navy Reserve;
 - (C) the Marine Corps Reserve;
 - (D) the Air Force Reserve;
 - ~~(E) the Space Force Reserve;~~
 - ~~(F)~~ (E) the Coast Guard Reserve;
 - ~~(G)~~ (F) the Army National Guard of the United States; and
 - ~~(H)~~ (G) the Air National Guard of the United States.

* * * * *

CHAPTER 19—INSURANCE

* * * * *

SUBCHAPTER III—SERVICEMEMBERS' GROUP LIFE INSURANCE

§ 1965. Definitions

For the purpose of this subchapter:

- (1) The term “active duty” means—
- (A) full-time duty in the Armed Forces, other than active duty for training;
 - (B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;
 - (C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; and
 - (D) full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy.
- (2) The term “active duty for training” means—
- (A) full-time duty in the Armed Forces performed by Reserves, or by members of the Space Force in a space force active status (as defined in section 101(e)(1) of title 10) but not on sustained duty under section 20105 of title 10, for training purposes;
 - (B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;
 - (C) full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; and

(D) in the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(3) The term “inactive duty training” means—

(A) duty (other than full-time duty) prescribed or authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service), or for members of the Space Force in a space force active status (as defined in section 101(e)(1) of title 10), which duty is scheduled in advance by competent authority to begin at a specific time and place; and

(B) in the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) which is scheduled in advance by competent authority to begin at a specific time and place under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(4) ***

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

§ 2402. Persons eligible for interment in national cemeteries

(a) Under such regulations as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery under the control of the National Cemetery Administration:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, air, or space service).

(2) Any member of a Reserve component of the Armed Forces, any member of the Space Force, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) ***

CHAPTER 30—ALL—VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§3011. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) ***

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) continues on active duty;

(B) is discharged from active duty with an honorable discharge;

(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

(D) is released from active duty for further service in a reserve component of the Armed Forces or for further service in the Space Force in a space force active status not on sustained duty under section 20105 of title 10 after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

* * * * *

CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

* * * * *

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who— ***

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the

Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces, or for further service in the Space Force in a space force active status not on sustained duty under section 20105 of title 10, after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

SERVICEMEMBERS CIVIL RELIEF ACT

(50 U.S.C. §§3901 et seq.)

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) [50 U.S.C. 3901 note] SHORT TITLE.—This Act may be cited as the “Servicemembers Civil Relief Act”.

(b) TABLE OF CONTENTS.—***

TITLE I—GENERAL PROVISIONS

SEC. 101. [50 U.S.C. 3911] DEFINITIONS.

For the purposes of this Act:

(1) ***

(2) MILITARY SERVICE.—The term “military service” means—

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard—

(i) active duty, as defined in section 101(d)(1) of title 10, United States Code; and

(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

SEC. 106. [50 U.S.C. 3917] EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

(a) RESERVES ORDERED TO REPORT FOR MILITARY SERVICE.—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

(b) PERSONS ORDERED TO REPORT FOR INDUCTION.—A person who has been ordered to report for induction under the Military Selective Service Act [50 U.S.C. 3801 et seq.] is entitled to the rights and protections provided a servicemember under this title and title II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

(c) The provisions of subsection (a) apply to a member of the Space Force who is ordered to report for military service in the same manner as to a member of a reserve component who is ordered to report for military service.

SEC. 108. [50 U.S.C. 3919] EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

- (1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.
- (2) With respect to a credit transaction between a creditor and the servicemember—
 - (A) a denial or revocation of credit by the creditor;
 - (B) a change by the creditor in the terms of an existing credit arrangement; or
 - (C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.
- (3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.
- (4) A refusal by an insurer to insure the servicemember.
- (5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component or as a member of the Space Force.

(6) A change in the terms offered or conditions required for the issuance of insurance.

1 **SEC. ____ . TEMPORARY LODGING SUPPORT FOR QUALIFIED VICTIMS OF**
2 **DOMESTIC VIOLENCE.**

3 Chapter 53 of title 10, United States Code, is amended by inserting after section 1059 the
4 following new section:

5 **“§1059a. Temporary lodging support for qualified victims of domestic violence**

6 “(a) **AUTHORITY.**—Under regulations prescribed by the Secretary of Defense, an
7 appropriation for the Department of Defense available to pay travel expenses is also available to
8 pay the temporary lodging expenses, for up to 60 days, of a qualified victim of domestic violence
9 seeking refuge from an alleged abuser.

10 “(b) **DEFINITIONS.**—In this section:

11 “(1) **DOMESTIC VIOLENCE.**—The term ‘domestic violence’ means an act described
12 in section 928b of this title (article 128b of the Uniform Code of Military Justice) and, for
13 purposes of this section, includes sexual violence committed against a qualified victim of
14 domestic violence.

15 “(2) **QUALIFIED VICTIM OF DOMESTIC VIOLENCE.**—The term ‘qualified victim of
16 domestic violence’ means an individual who meets the following criteria:

17 “(A) The individual is a spouse, intimate partner, or immediate family
18 member of a member of the armed forces.

19 “(B) The individual reported an incident of domestic violence to a
20 representative of an organization or element of the Department of Defense, a
21 civilian law enforcement organization, or a credentialed victim service provider.

22 “(C) The individual or a dependent of that individual is an alleged victim
23 of such incident.

1
2
3

“(D) The individual states that the individual has—

“(i) an intent to seek refuge from the alleged abuser; and

“(ii) a need for financial assistance.”.

Section-by-Section Analysis

This proposal would authorize the Department of Defense to pay for the temporary lodging expenses, not exceeding 60 days, of a qualified victim of domestic violence, when the offense was allegedly committed by a military service member. Consistent with the Uniform Code of Military Justice punitive article on Domestic Violence (Article 128b, or 10 U.S.C. 928b), this authority would extend to spouses, intimate partners, and immediate family members of the alleged abuser or alleged victim. The Department of Defense would implement this authority in regulations that apply to the entire department, potentially through either the Joint Travel Regulations (JTR) or the Department of Defense Financial Management Regulation (DoD FMR). This authority could be more narrowly tailored by the Per Diem, Travel, and Transportation Allowance Committee, which has oversight of the JTR, or the Undersecretary of Defense (Comptroller) in the DoD FMR. While the JTR authorizes dependent relocation for safety where the service member has committed “dependent abuse” and the victim’s safety is at risk, that trigger requires a confirmed finding of abuse and a determination that funded relocation is in the government’s best interest. Moreover, the JTR authorizes a permanent move including household goods and transportation; it does not provide for emergency temporary lodging. If implemented in the JTR, the payment method could be effected in a similar manner to Invitational Travel Authorization. If implemented in the FMR, the payment method could be effected as an authorized charge against a unit Government Purchase Card (GPC). The triggering event for discretionary command authority to pay temporary lodging expenses is the qualified victim’s report of the incident of domestic violence to an organization or element of the Department of Defense (e.g., the military chain of command or the base security forces), a civilian law enforcement organization (e.g., county police department), or a credentialed victim service provider. The individual, or dependent of the individual, must also state they have an intent to seek refuge from the alleged abuser, and a need for financial assistance. The term “domestic violence” is already defined in the Uniform Code of Military Justice punitive article on Domestic Violence (Article 128b, or 10 U.S.C. 928b) and, for purposes of this proposal, includes sexual violence committed against a qualified victim of domestic violence.

Commanders have a defined set of tools to address domestic violence, including the authority to issue Military Protective Orders, the ability to order a service member to vacate the dwelling, and the ability to relocate a dependent (including household goods and transportation). Additionally, the NDAA FY 2019 authorizes an expedited “transfer process” of the service member in cases of physical domestic violence where the service member is a victim or a sponsor of a victim, but this authority does not address situations of exigency necessitating immediate relocation of a victim. Clearly, there is a crucial gap in these authorities. Commanders currently lack the organic ability to provide lodging, at government expense, for

qualified victims of domestic violence in the immediate timeframe following a police report, a report to the chain of command, or a report to a credentialed victim service provider. Current law, 10 U.S.C. 1059, only allows for the payment of transitional compensation if the member is separated from service (either administratively or criminally) for a dependent abuse offense. Current travel law and appropriations do not allow for the DoD to provide financial assistance to military domestic violence victims by paying for their temporary lodging during the initial, immediate, and dangerous time of a domestic violence report. Consequently, procuring emergency lodging depends on charitable contributions, domestic violence shelter organizations, or uncertain military housing availability. This proposed authority provides commanders another option, like the Military Protective Order power, to help deescalate potential violence and quickly ensure victim safety. Providing authority to spend travel funds for temporary lodging for qualified victims of domestic violence will provide a critical safety net. Military family members may be especially at risk for lacking the financial resources to secure safe, temporary lodging as service member offenders often control the family’s financial resources or may deny access to these resources.

The 2022 National Defense Strategy states, on page 21: “And we will take care of our people, never sparing support for the health, safety, and welfare of service members and their families, as well as our civilian employees.” This proposal supports this objective by ensuring that commanders have the tools to ensure the immediate safety of dependent spouses and children during the crisis of alleged dependent abuse offenses. This proposal provides a different solution than was proposed in section 544 of the House-passed NDAA for FY 2023 (H.R. 7900 of the 117th Congress, as passed the House of Representatives on July 14, 2022), which would have established a grant pilot program under which the Secretary of Defense would be authorized to provide financial assistance to qualified victims of domestic violence to assist such victims in seeking refuge from an abuser.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2024 President’s Budget request that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
O&M Air Force (Existing Command Funds)	\$0.115	\$0.124	\$0.135	\$0.146	\$0.158	Operation and Maintenance, Air Force	BA04	42A	CXT0000
O&M Space Force (Existing Command Funds)	\$0.003	\$0.003	\$0.003	\$0.004	\$0.004	Operation and Maintenance, Space Force	BA04	42A	N/A

O&M Army (Existing Command Funds)	\$3.000	\$3.000	\$3.000	\$3.000	\$3.000	Operation and Maintenance, Army	BA01	131	N/A
O&M Navy (Existing Command Funds)	\$0.109	\$0.118	\$0.128	\$0.139	\$0.150	Operation and Maintenance, Navy	BA04	4A1M	N/A
O&M Marine Corps (Existing Command Funds)	\$0.061	\$0.066	\$0.072	\$0.077	\$0.084	Operation and Maintenance, Marine Corps	BA04	4A4G	N/A
Total	\$3.288	\$3.311	\$3.338	\$3.366	\$3.396	--	--	--	--

Cost Methodology: Assumptions are: (1) based on eligible person using 10 days lodging plus meals and incidentals; (2) lodging and M&IE rates based on Oct 2023 JTR rates for NCR; (3) no adjustment for FY 25 - FY 28 due to volatile, unknown inflation rates. Utilization rates are based on current Service projections calculated using transitional compensation (TC) cases as a benchmark. From 2012 to 2016, HQ AFPC/DPSA reported manual count of 224 AF-wide TC cases, with an average 32 cases over the timeframe. Applying the current average inflation rate of 8.2% (US Bureau of Labor Statistics) to FY 24, total estimated cost is \$114,951.68. Although a high estimate, we applied the 8.2% inflation to the out years as well. For the other armed forces, the AF numbers were ratioed using NDAA FY2023 Section 401 end strength numbers.

Cost Methodology Navy: Assumptions are: (1) based on eligible person using 10 days lodging plus meals and incidentals; (2) lodging and M&IE rates based on Mar 2023 JTR rates for NCR; (3) applied 8.2% inflation rate to FY 2024 and to the out years. Utilization rates are based on current Service projections calculated using transitional compensation (TC) cases as a benchmark. From 2018 to 2012, the Navy reported manual count of 147 TC cases, with an average of 30 cases per year.

Changes to Existing Law: This proposal would add a new section 1059a to title 10, United States Code, as set forth in the legislative text above.

1 **SEC. ____. TIMELY PAYMENTS FOR SMALL BUSINESS SUBCONTRACTORS.**

2 (a) REDUCTION IN TIME FOR CONTRACTOR EXPLANATION AND PAST PERFORMANCE
3 CONSIDERATION OF UNJUSTIFIED WITHHOLDING OF PAYMENTS TO SMALL BUSINESS
4 SUBCONTRACTORS.—Subparagraph (B)(i) of section 8(d)(13) of the Small Business Act (15
5 U.S.C. 637(d)(13)) is amended by striking “90 days” and inserting “30 days”.

6 (b) CLARIFICATION THAT CONTRACTING OFFICERS ARE AUTHORIZED TO ENTER OR
7 MODIFY PAST PERFORMANCE INFORMATION RELATED TO UNJUSTIFIED NON-PAYMENT OR
8 REDUCED PAYMENT BEFORE OR AFTER CONTRACT CLOSE-OUT.—Subparagraph (C) of such
9 section is amended by adding at the end the following new sentence: “Additionally, the
10 contracting officer for a covered contract may enter or modify past performance information of
11 the prime contractor in connection with unjustified failure to make a full or timely payment to a
12 subcontractor subject to this paragraph before or after close-out of the covered contract.”.

13 (c) DUTY OF COOPERATION TO CORRECT AND MITIGATE UNJUSTIFIED FAILURE TO MAKE
14 FULL OR TIMELY PAYMENTS TO SUBCONTRACTORS.—Such section is further amended—

15 (1) by redesignating subparagraph (E) as subparagraph (F);

16 (2) by inserting after subparagraph (D) the following new subparagraph (E):

17 “(E) COOPERATION.—Once a contracting officer determines, with respect
18 to a prime contractor’s past performance, that there was an unjustified failure by
19 the prime contractor on a covered contract to make a full or timely payment to a
20 subcontractor covered by subparagraph (B) or (C), such prime contractor is
21 required to cooperate with the contracting officer, who shall consult with the
22 Director of Small Business Programs or Director of Small and Disadvantaged
23 Business Utilization acting pursuant to section 15(k)(6) and other representatives

1 of the Government, with regards to correcting and mitigating such unjustified
2 failure to make a full or timely payment to the subcontractor. The duty of
3 cooperation under this subparagraph continues until the subcontractor is made
4 whole or the contracting officer’s determination is no longer effective, and
5 regardless of performance or close-out status of the covered contract.”; and
6 (3) in subparagraph (D), by striking “subparagraph (E)” and inserting
7 “subparagraph (F)”.

[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

This proposal would strengthen financial resiliency of small businesses in the lower tiers of the defense industrial base by improving timeliness of those small businesses’ cash flows. The 2022 Department of Defense (DoD) EO14017 Report, *Security Defense Critical Supply Chains*, highlights the importance of increasing resilience of sub-tier small business suppliers. The 2018 DoD EO 13806 Report, *Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States*, identifies funding stability for subcontractors and suppliers as a perennial, critical issue for the health of the defense industrial base. The 2019 DoD Small Business Strategy commits the DoD to facilitating prompt payments to small businesses by the DoD and by large prime contractors. By addressing the financial resiliency challenge, this proposal directly supports priority No. 4 of the 2022 National Defense Strategy (NDS), “building a resilient Joint Force and defense ecosystem.” This proposal also directly supports the priorities of the 2021 Interim National Security Strategic Guidance (INSSG) to “invest in our national security workforce, institutions, and partnerships” and “to provide on an economic recovery grounded in equitable and inclusive growth, as well as investments to encourage innovation, strengthen national competitiveness, produce good-paying jobs, rebuild American supply chains for critical goods, and expand opportunities for all Americans.”

Specifically, this proposal would drastically reduce a statutory “pay delay window” by which large prime contractors may delay payment to small business subcontractors beyond the timelines specified in Federal contracts. The “pay delay window” loophole represents a coverage gap between the Small Business Act and more recent prompt payment reforms and can be as wide as 75 or 83 days. Under current law, the Government lacks effective tools to either incentivize prompt payment or to hold large prime contractors accountable for delays within this window.

Paragraph (13) of section 8(d) of the Small Business Act, 15 U.S.C. 637(d)(13), enacted by section 1334 of the Small Business Jobs Act (SBJA) of 2010, Public Law 111-240, sets a 90-

day threshold for delays and reductions or payments to small business subcontractors on covered contracts (i.e., contracts that have small business subcontracting plans). That paragraph requires large prime contractors to provide explanations to the contracting officers for such delays. That paragraph also requires contracting officers to consider unjustified payment delays or reductions beyond this 90-day timeline in large primes' past performance ratings. This 90-day timeline is increasingly outdated in light of recent payment reforms and is inadequate in the e-commerce era.

Pursuant to more recent payment reforms, the Government can pay large prime contractors on accelerated schedules much earlier than 90 days after the date due, and frequently expects large prime contractors to pass accelerated payment schedules down to subcontractors. For example, in accordance with the Prompt Payment Act, 31 U.S.C. Ch. 39 and implementing regulations, large prime contractors benefit from 30 days-or-less mandatory payment timeframes (which can be as low as 7 days or less). Specifically, large prime contractors also benefit from 15-day accelerated payment timeframes if they subcontract to small businesses. Recent legislation, FAR and DFARS regulations, and OMB memoranda, require or allow contracting officers to set minimum timelines for full and prompt payment to subcontractors as low as 7 days from receipt of Government payment on construction contracts and as low as 15 days on all contracts after receipt of proper invoice from the small business subcontractor. These recent reforms include:

- (1) FY2021 NDAA Sec. 815 and FY2019 NDAA Sec. 852, both originally codified at 10 U.S.C. 2307(2) and re-codified in 10 U.S.C. 3801;
- (2) FY2020 NDAA Sec. 873, codified at 31 U.S.C. 3903(a);
- (3) DFARS 232.009, *Providing Accelerated Payments to Small Business Subcontractors*, and DFARS 252.232-7017 (2020);
- (4) FAR 32.009, *Providing Accelerated Payments to Small Business Subcontractors*, and FAR 52.232-27 (2017) and -40 (2021); and
- (5) OMB Memorandum M-12-16, *Providing Prompt Payment to Small Business Subcontractors* (as extended by OMB Memoranda M-13-15, M-14-10, and M-17-13).

For example, the 7-day timeline is mandatory as a prompt payment timeline for paying construction subcontractors under FAR 52.232-27(c)(1). The 15-day timeline is a mandatory goal that agencies must establish for a prime contractor in accordance with 31 U.S.C. 3903(a)(11) if the prime contractor agreed to flow down the accelerated timeline. In other words, if the prime contractor receives 15-day accelerated payments from the Government, then FAR 52-232-40, *Accelerating Payments to Small Business Subcontractors*, makes it mandatory for the prime to pay small business subcontractors within the 15-day timeline to the maximum extent practicable.

Unfortunately, section 8(d)(13) tools are not available to the Government to manage or enforce large primes' performance and compliance with the 7-day, the 15-day timeline, or any other timelines shorter than 90 days. Even if the contracting officer includes those shorter timelines in the contract, section 8(d)(13) would not apply. As a result, the short timelines can become rather hollow promises for small business subcontractors. A reduced "pay delay window" of 30 days would enable redress of the more egregious delays beyond short timelines.

In today’s e-commerce era, prime contractors can be expected to pay their subcontractors immediately upon verifying subcontractors’ invoice or, at the very least, immediately upon receiving payment from the Government for the subcontracted work. However, the Department of the Air Force Office of Small Business Programs (SAF/SB) has received complaints from industry and Congress that some unscrupulous prime contractors have “run out the clock” by delaying payments beyond contract timelines and even beyond contract close-out. When subcontractors seek assistance from contracting officers after the 90-day timeline passes, in some cases the contracts are already closed out and the non-paying prime contractors have already moved on to other jobs. Agency Small Business Offices have authority in section 15(k)(6) of the Small Business Act (15 U.S.C. 644(k)(6)) to assist subcontractors with payments, but the 90-day timeline still protects the dilatory prime contractors. False Claims Act suits and default terminations for failure to comply with terms and conditions of the contract are relatively rare, and are not a time-sensitive remedy for subcontractors to obtain payments. Past performance evaluation is a much more effective and nimble tool because it affects prime contractors’ future work.

Subsection (a) of this proposal would amend section 8(d)(13) of the Small Business Act (15 U.S.C. 637(d)(13)) to reduce the time for explanations and past performance consideration of unjustified withholding of payment to small business subcontractors from 90 days to 30 days.

Subsection (b) of the proposal would clarify that contracting officers are authorized to enter or modify past performance information related to non-payment or reduced payment even after contract close-out.

Subsection (c) of the proposal would provide that prime contractors are required to cooperate with the contracting officer, who shall consult with agency SB Directors and other Government representatives with regards to correcting failure to make full or timely payment in accordance with terms of section 8(d)(13). This cooperation is required whenever a contracting officer makes a written determination of unjustified failure by the prime contractor to make full or timely payment to a small business subcontractor.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2024 President’s Budget request.

Changes to Existing Law: This proposal would amend the Small Business Act as follows:

SMALL BUSINESS ACT (15 U.S.C. 631 et seq.)

SEC. 8. (a) ***

(d)(1) ***

(13) PAYMENT OF SUBCONTRACTORS.—

(A) DEFINITION.—In this paragraph, the term “covered contract” means a contract relating to which a prime contractor is required to develop a subcontracting plan under paragraph (4) or (5).

(B) NOTICE.—

(i) IN GENERAL.—A prime contractor for a covered contract shall notify in writing the contracting officer for the covered contract if the prime contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than ~~90 days~~ 30 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor.

(ii) CONTENTS.—A prime contractor shall include the reason for the reduction in a payment to or failure to pay a subcontractor in any notice made under clause (i).

(C) PERFORMANCE.—A contracting officer for a covered contract shall consider the unjustified failure by a prime contractor to make a full or timely payment to a subcontractor in evaluating the performance of the prime contractor. Additionally, the contracting officer for a covered contract may enter or modify past performance information of the prime contractor in connection with unjustified failure to make a full or timely payment to a subcontractor subject to this paragraph before or after close-out of the covered contract.

(D) CONTROL OF FUNDS.—If the contracting officer for a covered contract determines that a prime contractor has a history of unjustified, untimely payments to contractors, the contracting officer shall record the identity of the contractor in accordance with the regulations promulgated under subparagraph ~~(E)~~ (F).

(E) COOPERATION. – Once a contracting officer determines, with respect to a prime contractor’s past performance, that there was an unjustified failure by the prime contractor on a covered contract to make a full or timely payment to a subcontractor covered by subparagraph (B) or (C), such prime contractor is required to cooperate with the contracting officer, who shall consult with the Director of Small Business Programs or Director of Small and Disadvantaged Business Utilization acting pursuant to section 15(k)(6) and other representatives of the Government, with regards to correcting and mitigating such unjustified failure to make a full or timely payment to a subcontractor. The duty of cooperation under this subparagraph continues until the subcontractor is made whole or the contracting officer’s determination is no longer effective, and regardless of performance or close-out status of the covered contract.

~~(E)~~ REGULATIONS.—Not later than 1 year after the date of the enactment of this paragraph [Sept. 27, 2010], the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) [section 1302(a) of title 41, United States Code,] shall amend the Federal Acquisition Regulation issued under section 25 of such Act [section 1303(a) of such title] to—

- (i) describe the circumstances under which a contractor may be determined to have a history of unjustified, untimely payments to subcontractors;
- (ii) establish a process for contracting officers to record the identity of a contractor described in clause (i); and

(iii) require the identity of a contractor described in clause (i) to be incorporated in, and made publicly available through, the Federal Awardee Performance and Integrity Information System, or any successor thereto.