

cluded in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109-364, as enacted.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §511(e), Oct. 17, 2006, 120 Stat. 2184, provided that: “The amendments made by this section [amending this section and sections 14308 and 14311 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to officers on promotion lists established on or after the date of the enactment of this Act.”

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) to appoint officers in grades of first lieutenant and captain in Army, Air Force, and Marine Corps or in grades of lieutenant (junior grade) and lieutenant in Navy delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(c), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

#### DEADLINE FOR UNIFORM REGULATIONS ON DELAY OF PROMOTIONS

Pub. L. 109-364, div. A, title V, §511(c), Oct. 17, 2006, 120 Stat. 2183, provided that:

“(1) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 624(d) of title 10, United States Code (as amended by subsection (a)(1) of this section), and the regulations required by section 14311 of such title (as amended by subsection (b)(1) of this section) not later than March 1, 2008.

“(2) SAVINGS CLAUSE FOR EXISTING REGULATIONS.—Until the Secretary of Defense prescribes regulations pursuant to paragraph (1), regulations prescribed by the Secretaries of the military departments under the sections referred to in paragraph (1) shall remain in effect.”

#### § 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 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.

(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position he would have held had he not been promoted to the grade of brigadier general or rear admiral (lower half).

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2858; amended Pub. L. 97-86, title IV, §405(b)(1), (4)(A), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), (4)(A), Nov. 8, 1985, 99 Stat. 628.)

#### AMENDMENTS

1985—Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” in section catchline and subsecs. (a) and (c).

1981—Pub. L. 97-86 substituted “commodore” for “commodore admiral” in section catchline and subsecs. (a) and (c).

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

#### § 626. Acceptance of promotions; oath of office

(a) An officer who is appointed to a higher grade under section 624 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 of this title.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2858.)

#### SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

Sec. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636.	<p>Failure of selection for promotion.</p> <p>Special selection boards.</p> <p>Removal from a list of officers recommended for promotion.</p> <p>Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).</p> <p>Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade).</p> <p>Effect of failure of selection for promotion: captains and majors of the Army, Air Force, and Marine Corps and lieutenants and lieutenant commanders of the Navy.</p> <p>Retirement for years of service: regular lieutenant colonels and commanders.</p> <p>Retirement for years of service: regular colonels and Navy captains.</p> <p>Retirement for years of service: regular brigadier generals and rear admirals (lower half).</p> <p>Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half).</p>
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#### AMENDMENTS

2008—Pub. L. 110-181, div. A, title V, §503(a)(3), Jan. 28, 2008, 122 Stat. 95, substituted “six years” for “five years” in item 630.

2001—Pub. L. 107-107, div. A, title V, §505(d)(4), Dec. 28, 2001, 115 Stat. 1088, struck out “regular” before “commissioned officers” in item 630, struck out “regular” before “first lieutenants” in item 631, and struck out “regular” before “captains and majors” and before “lieutenants and lieutenant commanders” in item 632.

1997—Pub. L. 105-85, div. A, title V, §506(c), Nov. 18, 1997, 111 Stat. 1726, substituted “regular officers in grades above brigadier general and rear admiral (lower half)” for “regular major generals and rear admirals” in item 636.

1985—Pub. L. 99-145, title V, §514(b)(5)(B), Nov. 8, 1985, 99 Stat. 628, substituted “rear admirals (lower half)” for “commodores” in item 635.

1981—Pub. L. 97-86, title IV, §405(b)(5)(B), Dec. 1, 1981, 95 Stat. 1106, substituted “commodores” for “commodore admirals” in item 635.

#### § 627. Failure of selection for promotion

An officer in a grade below the grade of colonel or, in the case of an officer of the Navy, cap-

tain who is in or above the promotion zone established for his grade and competitive category under section 623 of this title and is considered but not selected for promotion by a selection board convened under section 611(a) of this title shall be considered to have failed of selection for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2859.)

#### EFFECTIVE DATE

Subchapter effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

#### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

### § 628. Special selection boards

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion from in or above the promotion zone by a promotion board was not so considered, or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed, the Secretary shall convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) 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 him. 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 him.

(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 or flag officer grade, the person shall be considered to have failed of selection for promotion.

(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—(1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board 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 (whether or not then on active duty)

should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

(A) the action of the promotion 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 him. 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 him.

(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 military department concerned 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 617(b) and 618 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 611(a) of this title. However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d), 576(f), and 613a of this title (rather than the provisions of sections 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 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 624 of this title. However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 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 active-duty list as he would have had if he had been recommended for promotion to that grade by the board which should have considered, or which did consider, him. In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.

(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 612 of this title or, in the case of board to consider a warrant officer or former warrant officer, in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned; and

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

(g) **JUDICIAL REVIEW.**—(1)(A) A court of the United States may review a determination by the Secretary of a military department under subsection (a)(1) or (b)(1) not to convene a special selection board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

- (i) arbitrary or capricious;
- (ii) not based on substantial evidence;
- (iii) a result of material error of fact or material administrative error; or
- (iv) otherwise contrary to law.

(B) If a court sets aside a determination by the Secretary of a military department not to convene a special selection board under this section, it shall remand the case to the Secretary concerned, who shall provide for consideration by such a board.

(2) A court of the United States may review the action of a special selection board convened under this section or an action of the Secretary of the military department concerned on the report of such a board. In any such case, a court may set aside the action only if the court finds that the action was—

- (A) arbitrary or capricious;
- (B) not based on substantial evidence;
- (C) a result of material error of fact or material administrative error; or
- (D) otherwise contrary to law.

(3)(A) If, six months after receiving a complete application for consideration by a special selection board under this section in any case, the Secretary concerned has not convened such a

board and has not denied consideration by such a board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied the consideration of the case by such a board.

(B) If, six months after the convening of a special selection board under this section in any case, the Secretary concerned has not taken final action on the report of the board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

(C) Under regulations prescribed under subsection (j), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(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 concerned 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 a military department to correct a military record under section 1552 of this title.

(j) **REGULATIONS.**—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (g), other than to paragraph (3)(C) of that subsection.

(2) The Secretary may prescribe in the regulations under paragraph (1) 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.

(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

(k) **PROMOTION BOARD DEFINED.**—In this section, the term "promotion board" means a se-

lection board convened by the Secretary of a military department under section 573(a) or 611(a) of this title.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2859; amended Pub. L. 98-525, title V, §527(a), Oct. 19, 1984, 98 Stat. 2525; Pub. L. 102-190, div. A, title XI, §1131(4), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 102-484, div. A, title X, §1052(10), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 105-261, div. A, title V, §501(a)-(e), Oct. 17, 1998, 112 Stat. 2000-2002; Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290; Pub. L. 107-107, div. A, title V, §§503(b), 505(c)(3)(A), Dec. 28, 2001, 115 Stat. 1083, 1088; Pub. L. 109-364, div. A, title V, §514(a), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 111-383, div. A, title V, §503(b), Jan. 7, 2011, 124 Stat. 4208.)

#### AMENDMENTS

2011—Subsec. (c)(2). Pub. L. 111-383 substituted “sections 576(d), 576(f), and 613a” for “sections 576(d) and 576(f)”.

2006—Subsec. (a)(1). Pub. L. 109-364, §514(a)(1), inserted “from in or above the promotion zone” after “for selection for promotion”.

Subsec. (b)(1)(A). Pub. L. 109-364, §514(a)(2), inserted “in a matter material to the decision of the board” after “contrary to law”.

2001—Subsec. (a)(1). Pub. L. 107-107, §505(c)(3)(A), inserted “or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed,” after “not so considered.”

Subsecs. (g) to (k). Pub. L. 107-107, §503(b), added subsecs. (g) to (j) and redesignated former subsec. (g) as (k).

2000—Subsec. (c)(2). Pub. L. 106-398 substituted “sections” for “section” after “rather than the provisions of”.

1998—Subsec. (a). Pub. L. 105-261, §501(a)(1), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: “In the case of an officer who is eligible for promotion who the Secretary of the military department concerned determines was not considered for selection for promotion by a selection board because of administrative error, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall convene a special selection board under this subsection (composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned) to determine whether such officer should be recommended for promotion.”

Subsec. (a)(2). Pub. L. 105-261, §501(a)(2), substituted “the person whose name was referred to it for consideration as that record” for “the officer as his record”.

Subsec. (a)(3). Pub. L. 105-261, §501(a)(3), substituted “a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person” for “an officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain whose name was referred to it for consideration, the officer”.

Subsec. (b). Pub. L. 105-261, §501(b)(1), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: “In the case of an officer who is eligible for promotion who was considered for selection for promotion by a selection board but was not selected, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, may convene a special selection board under this subsection (composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned) to determine whether

such officer should be recommended for promotion if the Secretary concerned determines that—

“(A) the action of the board which considered the officer was contrary to law or involved material error of fact or material administrative error; or

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

Subsec. (b)(2). Pub. L. 105-261, §501(b)(2), substituted “the person whose name was referred to it for consideration as that record” for “the officer as his record”.

Subsec. (b)(3). Pub. L. 105-261, §501(b)(3)(A), substituted “a person” for “an officer” and “the person” for “the officer”.

Subsec. (c). Pub. L. 105-261, §501(c)(1)(A), inserted heading.

Subsec. (c)(1). Pub. L. 105-261, §501(c)(1)(B), substituted “person” for “officer” in two places.

Subsec. (c)(2). Pub. L. 105-261, §501(c)(1)(C), inserted at end “However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d) and 576(f) of this title (rather than the provisions of section 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title.”

Subsec. (d). Pub. L. 105-261, §501(c)(2)(A), inserted heading.

Subsec. (d)(1). Pub. L. 105-261, §501(c)(2)(B)-(E), substituted “a person” for “an officer”, “that person” for “such officer”, and “that grade in” for “the next higher grade in” and inserted at end “However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title).”

Subsec. (d)(2). Pub. L. 105-261, §501(c)(3), substituted “A person who is appointed” for “An officer who is promoted” and “that appointment” for “such promotion” and inserted at end “In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.”

Subsec. (e). Pub. L. 105-261, §501(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The provisions of section 613 of this title apply to members of special selection boards convened under this section.”

Subsecs. (f), (g). Pub. L. 105-261, §501(e), added subsecs. (f) and (g).

1992—Subsec. (b)(1). Pub. L. 102-484 substituted “section 573” for “section 558”.

1991—Subsec. (a)(1). Pub. L. 102-190 substituted “section 573” for “section 558”.

1984—Subsecs. (a)(1), (b)(1). Pub. L. 98-525 substituted “(composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 558 of this title and regulations prescribed by the Secretary of the military department concerned)” for “(composed in accordance with section 612 of this title)”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §514(c), Oct. 17, 2006, 120 Stat. 2185, provided that: “The amendments made by this section [amending this section and section 14502 of this title] shall take effect on March 1, 2007, and shall apply with respect to selection boards convened on or after that date.”

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, §503(c), Dec. 28, 2001, 115 Stat. 1084, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 1558 of this title and amending this section] shall apply with respect to any proceeding pending on or after the date of the enactment of this Act [Dec. 28, 2001] without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date.

“(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (d)(1) to approve, modify, or disapprove report of a selection board delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(a), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

#### RATIFICATION OF CODIFIED PRACTICE

Pub. L. 105-261, div. A, title V, §501(f), Oct. 17, 1998, 112 Stat. 2002, provided that the consideration by a special selection board convened under this section before Oct. 17, 1998, of a person who, at the time of consideration, had been a retired officer or former officer of the Armed Forces (including a deceased retired or former officer) was ratified.

### § 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) 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) of this title to a grade for which appointment is required by section 624(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) 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) of this title to a grade for which appointment is required by section 624(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) ADMINISTRATIVE REMOVAL.—Under regulations prescribed by the Secretary concerned, if an officer on the active-duty list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—(1) An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board convened for his grade and competitive category and he is promoted, the Secretary of the military department concerned may, upon such promotion, grant him the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if his name had not been so removed.

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

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2860; amended Pub. L. 109-364, div. A, title V, §515(a), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 110-181, div. A, title X, §1063(a)(2), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111-383, div. A, title V, §504(a), Jan. 7, 2011, 124 Stat. 4208.)

#### AMENDMENTS

2011—Subsecs. (d), (e). Pub. L. 111-383 added subsec. (d) and redesignated former subsec. (d) as (e).

2008—Subsec. (d)(1). Pub. L. 110-181 inserted comma after “(a)”.

2006—Subsec. (a). Pub. L. 109-364, §515(a)(4)(A), inserted heading.

Subsec. (b). Pub. L. 109-364, §515(a)(1), inserted heading and inserted “to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate” after “the President”.

Subsec. (c). Pub. L. 109-364, §515(a)(2)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-364, §515(a)(2)(A), (4)(B), redesignated subsec. (c) as (d) and inserted heading.

Subsec. (d)(1). Pub. L. 109-364, §515(a)(3), substituted “(b), or (c)” for “or (b)”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §515(c), Oct. 17, 2006, 120 Stat. 2187, provided that: “The amendments made by this section [amending this section and section 14310 of this title] shall apply to any promotion list approved by the President after January 1, 2007.”

## DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) to remove name of any officer from a promotion list to any grade below commodore or brigadier general delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(b), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

**§ 630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade)**

The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

(1) may discharge any officer on the active-duty list who—

(A) has less than six years of active commissioned service; or

(B) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade); and

(2) shall, unless the officer has been promoted, discharge any officer described in paragraph (1)(B) at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98-525, title XIV, §1405(11), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 107-107, div. A, title V, §505(d)(2), (4)(A), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 108-136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 110-181, div. A, title V, §503(a)(1), (2), Jan. 28, 2008, 122 Stat. 95.)

## AMENDMENTS

2008—Pub. L. 110-181, §503(a)(2), substituted “six years” for “five years” in section catchline.

Par. (1)(A). Pub. L. 110-181, §503(a)(1), substituted “six years” for “five years”.

2003—Par. (2). Pub. L. 108-136 substituted “paragraph” for “clause”.

2001—Pub. L. 107-107, §505(d)(4)(A), struck out “regular” before “commissioned officers” in section catchline.

Par. (1). Pub. L. 107-107, §505(d)(2), struck out “regular” before “officer” in introductory provisions and before “grade of first lieutenant” in subpar. (B).

1984—Par. (2). Pub. L. 98-525 substituted “18-month” for “eighteen-month”.

**§ 631. Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade)**

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies), each officer of the Army, Air Force, or Marine Corps on the active-duty list who holds the grade of first lieutenant and has failed of selection for promotion to the grade of captain for the second time, and each officer of the Navy on the active-duty list who holds the grade of lieutenant (junior grade) and has failed of selection for promotion to the grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.

(d) For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps who holds the grade of first lieutenant, and an officer of the Navy who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 624(a)(3) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98-525, title V, §525(c), Oct. 19, 1984, 98 Stat. 2525; Pub. L. 107-107, div. A, title V, §505(a)(2), (d)(3), (4)(B), Dec. 28, 2001, 115 Stat. 1086, 1088; Pub. L. 108-136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457.)

## AMENDMENTS

2003—Subsec. (a)(3). Pub. L. 108-136 substituted “paragraph” for “clause”.

2001—Pub. L. 107-107, §505(d)(4)(B), struck out “regular” before “first lieutenants” in section catchline.

Subsec. (a). Pub. L. 107-107, §505(d)(3), in introductory provisions, substituted “Army, Air Force, or Marine Corps on the active-duty list” for “Regular Army, Regular Air Force, or Regular Marine Corps” and “Navy on the active-duty list” for “Regular Navy” and struck out “regular” before “grade” wherever appearing.

Subsec. (d). Pub. L. 107-107, §505(a)(2), added subsec. (d).

1984—Subsec. (c). Pub. L. 98-525 added subsec. (c).

**§ 632. Effect of failure of selection for promotion: captains and majors of the Army, Air Force, and Marine Corps and lieutenants and lieutenant commanders of the Navy**

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies) and except as provided under section 637(a) of this title, each officer of the Army, Air Force, or Marine Corps on the active-duty list who holds the grade of captain or major, and each officer of the Navy on the active-duty list who holds the grade of lieutenant or lieutenant commander, who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) except as provided in paragraph (3) and in subsection (c), be discharged on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired under that section, unless he is sooner retired or discharged under another provision of law.

(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(c)(1) If a health professions officer described in paragraph (3) is subject to discharge under subsection (a)(1) and, as of the date on which the officer is to be discharged under that subsection, the officer has not completed a period of active duty service obligation that the officer incurred under section 2005, 2114, 2123, or 2603 of this title, the officer shall be retained on active duty until completion of such active duty service obligation, and then be discharged under that subsection, unless sooner retired or discharged under another provision of law.

(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the active duty service obligation of that officer is not in the best interest of the service.

(3) This subsection applies to a medical officer or dental officer or an officer appointed in a medical skill other than as a medical officer or dental officer (as defined in regulations prescribed by the Secretary of Defense).

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 107-107, div. A,

title V, §505(d)(3), (4)(C), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 108-136, div. A, title V, §505(a), (b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 108-375, div. A, title X, §1084(d)(6), Oct. 28, 2004, 118 Stat. 2061.)

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108-375 substituted “paragraph (3)” for “paragraph (2)” and “under that subsection” for “under that paragraph” before “, the officer has not”.

2003—Subsec. (a)(1). Pub. L. 108-136, §505(a)(1), inserted “except as provided in paragraph (3) and in subsection (c),” before “be discharged”.

Subsec. (a)(3). Pub. L. 108-136, §505(b), substituted “paragraph” for “clause”.

Subsec. (c). Pub. L. 108-136, §505(a)(2), added subsec. (c).

2001—Pub. L. 107-107, §505(d)(4)(C), struck out “regular” before “captains and majors” and before “lieutenants and lieutenant commanders” in section catchline.

Subsec. (a). Pub. L. 107-107, §505(d)(3), in introductory provisions, substituted “Army, Air Force, or Marine Corps on the active-duty list” for “Regular Army, Regular Air Force, or Regular Marine Corps” and “Navy on the active-duty list” for “Regular Navy” and struck out “regular” before “grade” wherever appearing.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, §505(c), Nov. 24, 2003, 117 Stat. 1457, provided that: “The amendments made by subsection (a) [amending this section] shall not apply in the case of an officer who as of the date of the enactment of this Act [Nov. 24, 2003] is required to be discharged under section 632(a)(1) of title 10, United States Code, by reason of having failed of selection for promotion to the next higher regular grade a second time.”

**§ 633. Retirement for years of service: regular lieutenant colonels and commanders**

(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps 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.

(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 5596(e) or 6383 of this title applies.

(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 98-525, title V, §529(b), title XIV, §1405(12), Oct. 19, 1984, 98 Stat. 2526, 2622; Pub. L. 102-484, div. A, title V, §504(a), Oct. 23, 1992, 106 Stat. 2403; Pub. L. 103-160, div. A, title V, §561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105-261, div. A, title V, §504(a), Oct. 17, 1998, 112 Stat. 2004; Pub. L. 109-163, div. A, title V, §509(a)(1), Jan. 6, 2006, 119 Stat. 3229.)

AMENDMENTS

2006—Pub. L. 109-163 designated existing provisions as subsec. (a), inserted heading, substituted “Except as

provided in subsection (b) and as provided” for “Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies and except as provided”, and added subsec. (b).

1998—Pub. L. 105-261 substituted “Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies” for “Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies” and struck out at end “During the period beginning on July 1, 1993, and ending on October 1, 1999, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.”

1993—Pub. L. 103-160 substituted “October 1, 1999” for “October 1, 1995”.

1992—Pub. L. 102-484 inserted at end “During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.”

1984—Pub. L. 98-525, §1405(12), substituted “28” for “twenty-eight”.

Pub. L. 98-525, §529(b), substituted “Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies” for “Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies)”.

#### § 634. Retirement for years of service: regular colonels and Navy captains

(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps 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.

(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 6383(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.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2862; amended Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98-525, title XIV, §1405(13), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102-484, div. A, title V, §504(b), Oct. 23, 1992, 106 Stat. 2403; Pub. L. 103-160, div. A, title V, §561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105-261, div. A, title V, §504(b), Oct. 17, 1998, 112 Stat. 2004; Pub. L. 109-163, div. A, title V, §509(a)(2), Jan. 6, 2006, 119 Stat. 3229.)

#### AMENDMENTS

2006—Pub. L. 109-163 designated existing provisions as subsec. (a), inserted heading, substituted “Except as

provided in subsection (b) and as provided” for “Except an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except as provided”, and added subsec. (b).

1998—Pub. L. 105-261 inserted “an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except” after “Except” and struck out at end “During the period beginning on July 1, 1993, and ending on October 1, 1999, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.”

1993—Pub. L. 103-160 substituted “October 1, 1999” for “October 1, 1995”.

1992—Pub. L. 102-484 inserted at end “During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.”

1985—Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1984—Pub. L. 98-525 substituted “30” for “thirty”.

1981—Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

#### § 635. Retirement for years of service: regular brigadier generals and rear admirals (lower half)

Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps 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.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2863; amended Pub. L. 97-86, title IV, §405(b)(1), (5)(A), Dec. 1, 1981, 95 Stat. 1105, 1106; Pub. L. 98-525, title XIV, §1405(13), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99-145, title V, §514(b)(1), (5)(A), Nov. 8, 1985, 99 Stat. 628.)

#### AMENDMENTS

1985—Pub. L. 99-145 substituted “rear admirals (lower half)” for “commodores” in section catchline and “rear admiral (lower half)” for “commodore” in text.

1984—Pub. L. 98-525 substituted “30” for “thirty”.

1981—Pub. L. 97-86 substituted “commodores” for “commodore admirals” in section catchline and “commodore” for “commodore admiral” in text.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

#### § 636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half)

(a) MAJOR GENERALS AND REAR ADMIRALS SERVING IN GRADE.—Except as provided in sub-

section (b) or (c) and under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps 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.

(b) **LIEUTENANT GENERALS AND VICE ADMIRALS.**—In the administration of subsection (a) in the case of an officer who is serving in the grade of lieutenant general or vice admiral, the number of years of active commissioned service applicable to the officer is 38 years.

(c) **GENERALS AND ADMIRALS.**—In the administration of subsection (a) in the case of an officer who is serving in the grade of general or admiral, the number of years of active commissioned service applicable to the officer is 40 years.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2863; amended Pub. L. 98-525, title XIV, §1405(14), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 105-85, div. A, title V, §506(a), (b), Nov. 18, 1997, 111 Stat. 1726.)

#### AMENDMENTS

1997—Pub. L. 105-85, §506(b), substituted “regular officers in grades above brigadier general and rear admiral (lower half)” for “regular major generals and rear admirals” in section catchline.

Pub. L. 105-85, §506(a), designated existing provisions as subsec. (a), inserted heading, substituted “Except as provided in subsection (b) or (c) and” for “Except as provided”, and added subsecs. (b) and (c).

1984—Pub. L. 98-525 substituted “35” for “thirty-five”.

#### SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT

Sec.	
637.	Selection of regular officers for continuation on active duty.
638.	Selective early retirement.
638a.	Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges.
638b.	Voluntary retirement incentive.
639.	Continuation on active duty to complete disciplinary action.
640.	Deferment of retirement or separation for medical reasons.

#### AMENDMENTS

2011—Pub. L. 112-81, div. A, title V, §504(a)(2), 125 Stat. 1390, added item 638b.

1990—Pub. L. 101-510, div. A, title V, §521(a)(2), Nov. 5, 1990, 104 Stat. 1561, added item 638a.

#### § 637. Selection of regular officers for continuation on active duty

(a)(1) An officer subject to discharge or retirement in accordance with section 632 of this title may, subject to the needs of the service, be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

(2) An officer who holds the regular grade of captain in the Army, Air Force, or Marine

Corps, or the regular grade of lieutenant in the Navy, and who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes 20 years of active commissioned service unless he is promoted to the regular grade of major or lieutenant commander, respectively.

(3) An officer who holds the regular grade of major or lieutenant commander who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes 24 years of active commissioned service unless he is promoted to the regular grade of lieutenant colonel or commander, respectively.

(4) An officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in accordance with section 632 of this title.

(5) Each officer who is continued on active duty under this subsection, is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

(A) be discharged upon the expiration of his period of continued service; or

(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding the provisions of clause (A), any officer who would otherwise be discharged under such clause and is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, shall unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

(6) The retirement or discharge of an officer pursuant to this subsection shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(b)(1) An officer subject to retirement under section 633 or 634 of this title may, subject to the needs of the service, have his retirement deferred and be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

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