

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

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

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

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

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

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

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

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

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

(A) The armed forces.

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

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

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

(E) The Navy Reserve Force.

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

(G) The National Naval Volunteers.

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

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

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

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

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

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

(A) One point for each day of—

(i) active service; or

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

if that service conformed to required standards and qualifications.

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

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

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

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

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

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

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

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

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

(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

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

(1) Service (other than active service) in an inactive section of the Organized Reserve

Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

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

(3) Service in the inactive National Guard.

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES
1956 ACT

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

Subsection (a) consolidates the provisions of 10:1036a and 1036e(b)-(d), and 34:440i and 440m(b)-(d), relating to service that may be counted in determining eligibility for retired pay under this chapter. 10:1036e(a) and

34:440m(a) are omitted as covered by the enumeration of the service that may be counted for the purposes of the revised section.

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

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

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

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

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

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

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

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

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

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

1958 ACT

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

REFERENCES IN TEXT

Act of December 22, 1942, referred to in subsec. (a)(1)(I), is act Dec. 22, 1942, ch. 805, 56 Stat. 1072, which

amended section 164 of former Title 10, Army and Air Force, and enacted provisions set out as notes under section 81 of former Title 10 and section 113 of former Title 37, Pay and Allowances, and was repealed as executed, by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641.

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

Subsec. (b)(6), (7). Pub. L. 86-197, §1(3), added par. (6), redesignated former par. (6) as (7), and prohibited the counting of service as a nurse, as an appointed aviation cadet, and that service described in cls. (I) and (J) of subsec. (a)(1) of this section.

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1964 AMENDMENT

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

personnel of the Coast and Geodetic Survey were transferred to the service and jurisdiction of a military department."

EFFECTIVE DATE OF 1958 AMENDMENT

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

SAVINGS PROVISION

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

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

Section 531(b), (c) of Pub. L. 104-201 provided that:

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

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

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

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

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

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

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

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

"SEC. 3. Additional pay accruing to any person by virtue of increased creditable service resulting from the inclusion of constructive service creditable by application of section 1 hereof shall not be made for active or

inactive duty for which pay is authorized by competent authority which is performed prior to the first day of the calendar quarter next succeeding the calendar quarter in which this Act becomes effective.”

ADDITIONAL CLERICAL SERVICE CREDITABLE UNDER THIS CHAPTER

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

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

“(b) notwithstanding section 1332(b)(6) [now 12732(b)(7)] of title 10, United States Code, a warrant officer is entitled to count classified service as an Army headquarters clerk or as a clerk of the Army Quartermaster Corps that he performed under any law in effect before August 29, 1916, as active service in determining his entitlement to retired pay under chapter 67 [now 1223] of title 10, United States Code, and in computing his retired pay under that chapter.”

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

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

- (1) The person's days of active service.
- (2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.
- (3) One day for each point credited to the person under clause (B), (C), or (D) of section 12732(a)(2) of this title, but not more than—
 - (A) 60 days in any one year of service before the year of service that includes September 23, 1996;
 - (B) 75 days in the year of service that includes September 23, 1996, and in any subsequent year of service before the year of service that includes October 30, 2000;
 - (C) 90 days in the year of service that includes October 30, 2000, and in any subsequent year of service before the year of service that includes October 30, 2007; and
 - (D) 130 days in the year of service that includes October 30, 2007, and in any subsequent year of service.
- (4) One day for each point credited to the person under subparagraph (E) of section 12732(a)(2) of this title.
- (5) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

(Aug. 10, 1956, ch. 1041, 70A Stat. 103, §1333; Pub. L. 85-861, §33(a)(10), Sept. 2, 1958, 72 Stat. 1565; renumbered §12733 and amended Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat.

2998, 3002; Pub. L. 104-201, div. A, title V, §§531(a), 543(b)(2), Sept. 23, 1996, 110 Stat. 2517, 2522; Pub. L. 105-85, div. A, title X, §1073(a)(67), (c)(4), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106-65, div. A, title V, §578(h)(2), Oct. 5, 1999, 113 Stat. 628; Pub. L. 106-398, §1 [[div. A], title VI, §652], Oct. 30, 2000, 114 Stat. 1654, 1654A-163; Pub. L. 107-107, div. A, title X, §1048(c)(16), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 110-181, div. A, title VI, §648, Jan. 28, 2008, 122 Stat. 161.)

HISTORICAL AND REVISION NOTES
1956 ACT

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

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

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

1958 ACT

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

AMENDMENTS

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

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

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

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

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

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

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