

W-1, or above” are inserted for clarity. The word “shall” is substituted for the word “may” because the Attorney General has construed R.S. 1443 as conferring a right to retirement upon officers who apply for it after 40 years of service (30 Op. Atty. Gen. 406). The words “from active service” are omitted as surplusage. The words “after completing 40 or more years of active service” are substituted for the words “has been forty years in the service of the United States” for clarity.

In subsection (b) the accepted meaning of the words “service of the United States” is spelled out for clarity. They have been consistently interpreted to include active service in the armed forces as defined in this title.

#### § 6322. Officers: 30 years

(a) An officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W-1, or above who applies for retirement after completing 30 or more years of active service may, in the discretion of the Secretary of the Navy, be retired.

(b) For the purpose of this section, an officer’s years of active service are computed by adding all his active service in the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 96-342, title VIII, § 813(d)(1), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96-513, § 513(17), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99-348, title II, § 203(b)(1), July 1, 1986, 100 Stat. 696.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6322 .....	34 U.S.C. 383.	May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso); June 17, 1948, ch. 497, § 1(d), 62 Stat. 477.
	34 U.S.C. 879 (less applicability to enlisted men).	June 4, 1920, ch. 228, § 3 (3d proviso, less applicability to enlisted men), 41 Stat. 835.
	34 U.S.C. 626-1(a) (1st sentence).	Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68.

In subsection (a) the words “Regular” and “holding a permanent appointment in the grade of warrant officer, W-1, or above” are inserted for clarity. The words “after completing 30 or more years of active service” are substituted for the words “has been thirty years in the service” for clarity. The words “retired from active service” are omitted as surplusage.

Subsection (b) is added to clarify the word “service”. It has been consistently interpreted to include active service in the armed forces as defined in this title.

In subsection (c) the words “is entitled to retired pay at the rate of 75 percent of the highest basic pay of the grade in which retired” are substituted for the words “with three-fourths of the highest pay of his grade” for clarity and uniformity of expression.

#### AMENDMENTS

1986—Subsec. (c). Pub. L. 99-348 struck out subsec. (c) which provided that each officer retired under this section be entitled to retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, at the rate of 75 percent of the highest basic pay of the grade in which retired, and in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d).

1980—Subsec. (c). Pub. L. 96-513 substituted “September 8, 1980” for “the date of the enactment of the De-

partment of Defense Authorization Act, 1981” wherever appearing.

Pub. L. 96-342 designated existing provisions as par. (1), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added par. (2).

#### 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.

#### § 6323. Officers: 20 years

(a)(1) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President.

(2)(A) The Secretary of Defense may authorize the Secretary of the Navy, during the period specified in subparagraph (B), to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.

(B) The period specified in this subparagraph is the period beginning on January 7, 2011, and ending on September 30, 2018.

(b) For the purposes of this section—

(1) an officer’s years of active service are computed by adding all his active service in the armed forces; and

(2) his years of service as a commissioned officer are computed by adding all his active service in the armed forces under permanent or temporary appointments in grades above warrant officer, W-1.

(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.

(d) A warrant officer who retires under this section may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title. If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay.

(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay computed under section 6333 of this title.

(f) Officers of the Navy Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), or are transferred to the Retired Reserve under section 6327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85-861, § 1(142), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88-132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96-342, title VIII, § 813(d)(2), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96-513, title V, §§ 503(47)(A), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 99-348, title II, § 203(b)(2), July 1, 1986, 100 Stat. 696; Pub.

L. 101–510, div. A, title V, § 523(b), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103–160, div. A, title V, § 561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, § 561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, § 1 [[div. A], title V, § 571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–163, div. A, title V, §§ 502(b), 515(b)(1)(H), Jan. 6, 2006, 119 Stat. 3225, 3233; Pub. L. 109–364, div. A, title X, § 1071(a)(33), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111–383, div. A, title V, § 506(b), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 112–239, div. A, title V, § 505(b), title X, § 1076(e)(6), Jan. 2, 2013, 126 Stat. 1715, 1951.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b), 6323(c) .....	34 U.S.C. 410b. 34 U.S.C. 410b-1.	Feb. 21, 1946, ch. 34, § 6, 60 Stat. 27. Apr. 14, 1949, ch. 52, § 1 (less applicability to Act of June 29, 1948, ch. 708, § 301(b), 62 Stat. 1087), 63 Stat. 47.

In subsection (b) the words “or the Reserve Components thereof” are omitted because the terms “Navy”, “Marine Corps”, and “Coast Guard” include the reserve components. The words “including active duty for training” are omitted because the term “active duty” is defined in this title as including training duty.

The Act of April 14, 1949 (34 U.S.C. 410b-1), extending the benefits of 34 U.S.C. 410b to officers on the honorary retired lists, was enacted because the Comptroller General had held that these officers, being already in a retired status, could not be retired under 34 U.S.C. 410b (U.S. Code Congressional Service, 1949, p. 1179). The provisions of the Naval Reserve Act of 1938 relating to the honorary retired lists were repealed by § 803 of the Armed Forces Reserve Act of 1952, but insofar as they provided for retirement and retired pay they were reenacted, for a period of 20 years, in § 413 of that act (50 U.S.C. 1052). Persons on the honorary retired lists when the Armed Forces Reserve Act of 1952 was passed were transferred to the appropriate Retired Reserve under § 213 of the Act. Persons qualifying for retirement under § 413 are likewise placed in the Retired Reserve. The purpose of Congress in enacting § 413 was to preserve the accrued rights of persons who were members of reserve components on January 1, 1953, the effective date of the Act (U.S. Code Congressional and Administrative News, 1952, p. 3584). One of their rights was the right to apply for retirement under 34 U.S.C. 410b upon completion of the required service, notwithstanding the fact that, before qualifying for retirement under that section, they had already acquired a retired status. Subsection (c) is worded accordingly.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b), 6323(c), (e) 6323(d) .....	34 App.:410b. [No source]. [No source]. [No source].	Aug. 4, 1955, ch. 553, § 1, 69 Stat. 493; Aug. 9, 1955, ch. 678, § 1(a), (b), 69 Stat. 614. [No source]. [No source]. [No source].

In subsection (b), the words “armed forces” are substituted for the words “Navy, Marine Corps, Army, Air Force, or Coast Guard, or the Reserve Components thereof” because “armed forces”, as defined in this title, is a collective term for these elements.

Subsections (c) and (e) state rules, formerly stated in section 6325, with respect to officers retired under this section.

Subsection (d) states a rule, formerly stated in section 6325, with respect to warrant officers retired under this section.

In subsections (c) and (e), the words “Unless otherwise entitled to a higher grade” and “Unless otherwise entitled to higher pay” are substituted for 34 App.:410c(b).

In subsection (d), the second and third provisos of 34 App.:410b, relating to officers whose basic pay is not based on years of service, is omitted as obsolete. Under the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), the basic pay of all officers is based on years of service. The subsection is worded to conform to the terminology of the Career Compensation Act of 1949 and to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 App.:410q.

Subsection (f) was formerly subsection (c).

REFERENCES IN TEXT

Section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), referred to in subsec. (f), was classified to section 933 of Title 50, War and National Defense, and was repealed by section 53 of act Aug. 10, 1956.

AMENDMENTS

2013—Subsec. (a)(2)(B). Pub. L. 112–239, § 1076(e)(6), substituted “January 7, 2011,” for “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011”.

Pub. L. 112–239, § 505(b), substituted “September 30, 2018” for “September 30, 2013”.

2011—Subsec. (a)(2)(B). Pub. L. 111–383 substituted “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and ending on September 30, 2013” for “January 6, 2006, and ending on December 31, 2008”.

2006—Subsec. (a)(2). Pub. L. 109–364 struck out second comma after “subparagraph (B)” in subpar. (A) and substituted “January 6, 2006,” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006” in subpar. (B).

Pub. L. 109–163, § 502(b), designated existing provisions as subpar. (A), substituted “during the period specified in subparagraph (B),” for “during the period beginning on October 1, 1990, and ending on December 31, 2001”, and added subpar. (B).

Subsec. (f). Pub. L. 109–163, § 515(b)(1)(H), substituted “Navy Reserve” for “Naval Reserve”.

2000—Subsec. (a)(2). Pub. L. 106–398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsec. (a)(2). Pub. L. 105–261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

1993—Subsec. (a)(2). Pub. L. 103–160 substituted “nine-year period” for “five-year period”.

1990—Subsec. (a). Pub. L. 101–510 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (e). Pub. L. 99–348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade in which retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

1980—Subsec. (c). Pub. L. 96–513, § 503(47)(A), substituted provisions that the retired grade of an officer

retired under this section is the grade determined under section 1370 of this title for provisions that had set the grade of officers retired under this section at the highest grade, permanent or temporary, in which he had served satisfactorily on active duty as determined by the Secretary of the Navy; or, if the Secretary determined that he had not served satisfactorily in his highest temporary grade, in the next lower grade in which he had served, but not lower than his permanent grade.

Subsec. (e). Pub. L. 96-513, §513(17), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing.

Pub. L. 96-342 designated existing provisions as par. (1), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added par. (2).

1963—Subsec. (e). Pub. L. 88-132 substituted "of" for "to which he would be entitled if serving on active duty in" after "2½ percent of the basic pay".

1958—Subsec. (a). Pub. L. 85-861 substituted "first day of any month" for "first day of the month".

Subsec. (b). Pub. L. 85-861 inserted provisions in cl. (2).

Subsecs. (c) to (f). Pub. L. 85-861 added subsecs. (c) to (e) and redesignated former subsec. (c) as (f).

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(47) of Pub. L. 96-513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) to approve application of an officer of Navy or Marine Corps for retirement after completion of more than 20 years of active service and to designate month in which such retirements shall become effective 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(e), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

For delegation to Secretary of Homeland Security of authority vested in President, see section 2(g) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, as amended, set out as a note under section 301 of Title 3, The President.

#### TEMPORARY EARLY RETIREMENT AUTHORITY

For provisions authorizing the Secretary of the Navy, during the period beginning Oct. 23, 1992, and ending Oct. 1, 1995, to apply this section to an officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years" in subsec. (a) of this section, see section 4403 of Pub. L. 102-484, set out as a note under section 1293 of this title.

#### § 6324. Officers: creditable service

For the purpose of this chapter, service as a nurse in the armed forces before April 16, 1947, is considered as commissioned service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 86-197, §1(6), Aug. 25, 1959, 73 Stat. 426; Pub. L. 89-609, §1(15), Sept. 30, 1966, 80 Stat. 853; Pub. L. 90-130, §1(23)(A), Nov. 8, 1967, 81 Stat. 380.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6324 .....	34 U.S.C. 43g(h).	Apr. 16, 1947, ch. 38, §207(i), 61 Stat. 50; redesignated (h), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882.

The words "or the reserve components thereof" are omitted because "Army", "Navy", and "Air Force", as defined in this title, include the reserve components.

#### AMENDMENTS

1967—Pub. L. 90-130 substituted provision reciting simply that service as a nurse in the armed forces before April 16, 1947, is considered as commissioned service for purposes of this chapter for provisions making specific reference to service under an appointment or contract or as a commissioned officer in the Nurse Corps of the Army or the Navy or as a commissioned officer of the Air Force designated as an Air Force Nurse.

1966—Pub. L. 89-609 substituted "the person's" for "her" in introductory text in two places.

1959—Pub. L. 86-197 substituted "a regular officer or a reserve officer" for "an officer".

#### AUTHORITY OF MILITARY DEPARTMENT SECRETARIES TO CONVENE BOARDS TO RECOMMEND DEFERMENT OF RETIREMENT OR SEPARATION OF NURSES

Secretaries authorized until July 1, 1972, to convene boards of officers to consider and recommend deferment of separation or retirement of officers of the Army Nurse Corps, officers of the Navy Nurse Corps, and Air Force nurses, as needs of the service require, see section 4(f) of Pub. L. 90-130, set out as a note under section 3069 of this title.

#### § 6325. Officers: retired grade and pay

(a) Except as provided in subsection (b) or section 1370 of this title, each officer who is retired under section 6321 or 6322 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(b) Each officer who is retired while serving in the grade of admiral, vice admiral, general, or lieutenant general by virtue of an appointment under section 601 of this title or who is retired while serving in a grade to which he was appointed or promoted under section 603 of this title or promoted under section 602<sup>1</sup> (as in effect before February 1, 1992) or section 5721 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade he would hold if he had not received such an appointment; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(c) A warrant officer who retires under section 6321, 6322, or 6323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85-422, §11(a)(6)(B), May 20, 1958, 72 Stat. 131;

<sup>1</sup> See References in Text note below.