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APPROVED
JAN 2-1975

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day: January 4

December 31, 1974

Posted
1/3

To Archive
1/3

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill S. 2149 - Benefits to
Members of the Coast Guard Reserve

Attached for your consideration is S. 2149, sponsored by Senators Long, Cotton and Magnuson, which would clarify the existing law to ensure that members of the Coast Guard Reserve have the same retention and retirement obligations, rights and benefits as have members of the reserve components of the other armed forces.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

Max Friedersdorf (Loen) and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign S. 2149 (Tab B).



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2149 - Benefits to members of the Coast Guard Reserve
Sponsors - Sen. Long (D) Louisiana and Sen. Cotton (R) New Hampshire and Sen. Magnuson (D) Washington

Last Day for Action

January 4, 1975 - Saturday

Purpose

Ensures that members of the Coast Guard Reserve have the same retention and retirement obligations, rights, and benefits as have members of the reserve components of the other armed forces.

Agency Recommendations

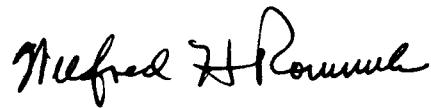
Office of Management and Budget	Approval
Department of Defense	Approval
Department of Transportation	Approval

Discussion

As presently written, existing law could be interpreted as exempting Coast Guard Reserve members from certain obligations and as denying them certain retention and retirement rights and benefits applicable to members of the other armed forces reserve components. The enrolled bill, which incorporates a Defense Department proposal, would clarify the existing law to ensure that members of the Coast Guard Reserve have the same retention and retirement obligations, rights, and benefits as have members of the reserve components of the other armed forces.

In the letter transmitting its proposal to the Congress, Defense stated:

"Members of the Coast Guard Reserve are subject to recall to active duty in the same way as members of reserve components of the Army, Navy, Air Force, and Marine Corps. They can be, and often are, subjected to the same type of duty as other Reservists, including duty in hostile fire areas. It is therefore only equitable that they receive the same rights and benefits as these other Reservists."



Assistant Director for
Legislative Reference

Enclosures



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

December 24, 1974

Dear Mr. Ash:

Your transmittal sheet dated December 23, 1974, enclosing a facsimile of an enrolled bill of Congress, S. 2149, "To amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes," and requesting the comments of the Department of Defense, has been received. The Department of the Navy has been assigned the responsibility for the preparation of a report expressing the views of the Department of Defense.

The purpose of S. 2149 is to ensure that members of the Coast Guard Reserve have the same retention and retirement obligations, rights, and benefits as have members of the reserve components of the other armed forces. Specifically, S. 2149 would amend section 684 of title 10, United States Code, to provide that a member of the Coast Guard Reserve who is entitled to a pension, retired or retainer pay, or disability compensation because of earlier military service will receive, when he is performing duty for which he is entitled to compensation, the same compensation as a similarly situated member of the reserve component of another armed force. S. 2149 would also amend section 1005 of title 10 to provide that a reserve officer of the Coast Guard, like a reserve officer of the other armed forces, may not be discharged or transferred from an active status until completion of the service required by section 651 of title 10 or by any other provision of law; a reserve officer so retained in an active status is an additional number to the authorized strength of his grade. Furthermore, S. 2149 would amend section 1006 of title 10 to ensure that a reserve officer of the Coast Guard who has completed 18, but less than 20, years of service is afforded the same opportunity for retention available to a member of the reserve component of another armed force.

It is arguable that most, if not all, of the aforementioned obligations, rights, and benefits are presently applicable to members of the Coast Guard Reserve by virtue of the assimilation provisions contained in section 755 of title 14, United States Code. S. 2149 would clarify the matter, however, by amending the relevant sections of title 10 to make those sections specifically applicable to the Coast Guard Reserve.

Finally, S. 2149 would further amend section 1006 of title 10 to provide that an officer of the reserve component of any of the armed forces who is retained in an active status because he has completed at least 18, but less than 20, years of service is an additional number to those otherwise authorized. Under existing law, a reserve officer of the Army or Air Force who is so retained in an active status is an additional number to those otherwise authorized.

Approval of this legislation would result in no increase in the budgetary requirements of the Department of Defense.

The Department of the Navy, on behalf of the Department of Defense, recommends the approval of S. 2149.

Sincerely yours,



D. S. Potter
Under Secretary of the Navy

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

DEC 20 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

Reference is made to your request for the comments of the Department of Transportation concerning S. 2149, an enrolled bill

"To amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes."

The enrolled bill amends sections 684, 1005, and 1006 of title 10, United States Code, to extend the benefits and protections of those sections, currently enjoyed by the reservists of the other armed forces, to the members of the Coast Guard Reserve. This is a legislative proposal of the Department of Defense primarily intended to benefit members of the reserve component of the Coast Guard which, of course, is within this Department.

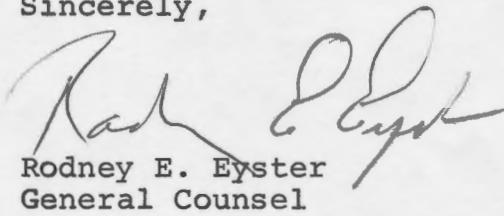
The amendments to section 684 are editorial in nature as Coast Guard Reservists currently enjoy the benefits of this section through an assimilation provision in title 14, United States Code. The amendment to section 1005 of title 10 will include Coast Guard Reservists within this section which provides that a reservist may not be transferred or discharged from an active status if he is serving the service required of him by section 651 of title 10. Two amendments to section 1006 of title 10 will afford Coast Guard Reserve officers protection from involuntarily being discharged or transferred from an active status when they are approaching retirement. To qualify for the benefits provided by this section, a Reserve officer must have a minimum of 18 years of creditable service. An additional amendment to section 1006 will provide that Coast Guard, Navy, or Marine Corps Reserve officers retained under the authority of this section are counted as additional numbers to those otherwise authorized. Currently this extra number provision applies only to Reserve officers of the Army and Air Force.

During consideration of the bill, both the Senate and the House of Representatives, at our request, made technical amendments to it unrelated to the substance of the proposal.

Enactment of the enrolled bill will not result in a significant increase in cost to the Federal Government. There will be no costs for the first five years following enactment. Thereafter, there will be a gradual build-up of costs to an estimated level of \$35,000 annually by about 20 years following enactment.

The Department of Transportation recommends that the President sign the enrolled bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney E. Eyster".

Rodney E. Eyster
General Counsel



To
W. H. Nichols
12-28-74

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 28 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2149 - Benefits to members of the Coast Guard Reserve
Sponsors - Sen. Long (D) Louisiana and Sen. Cotton (R) New Hampshire and Sen. Magnuson (D) Washington

Last Day for Action

January 4, 1975 - Saturday

Purpose

Ensures that members of the Coast Guard Reserve have the same retention and retirement obligations, rights, and benefits as have members of the reserve components of the other armed forces.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of Transportation	Approval

Discussion

As presently written, existing law could be interpreted as exempting Coast Guard Reserve members from certain obligations and as denying them certain retention and retirement rights and benefits applicable to members of the other armed forces reserve components. The enrolled bill, which incorporates a Defense Department proposal, would clarify the existing law to ensure that members of the Coast Guard Reserve have the same retention and retirement obligations, rights, and benefits as have members of the reserve components of the other armed forces.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS
FROM: *Vern Lengsfel* MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 886
Enrolled Bill S. 2149

The Office of Legislative Affairs concurs in the attached proposal
and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 886

Date: December 28, 1974

Time: 7:00 p.m.

FOR ACTION: Mike Duval *oh*
NSC/S *no obj*
Max Friedersdorf *ok*
PhilaAreedah *no obj*cc (for information): Nermen Hendriks
Jerry Jones
Hack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill H.R.149 - Benefits to Members of the
Coast Guard Reserve

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 886

Date: December 28, 1974**Time:** 7:00 p.m.**FOR ACTION:** Mike Duval
NSC/S
Max Friedersdorf
Phil Areeda**cc (for information):** Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30**Time:** 1:00 p.m.**SUBJECT:**Enrolled Bill S.2149 - Benefits to Members of the
Coast Guard Reserve

ACTION REQUESTED:

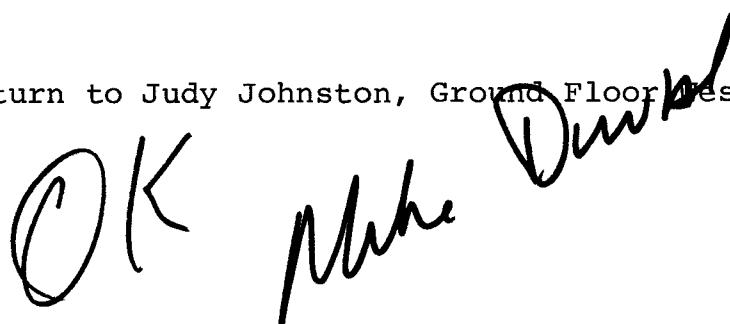
 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply

X

 For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. Warren K. Hendriks For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 886

Date: December 28, 1974

Time: 7:00 p.m.

FOR ACTION: Mike Duval
NSC/S
Max Friedersdorf
Phil Areedacc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill S.2149 - Benefits to Members of the
Coast Guard Reserve

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No Objection
OK
J. Areeda

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please call Warren N. Hendriks
telephone the Staff Secretary immediately.

For the President

Calendar No. 1041

93d CONGRESS }
2d Session }

SENATE

{ REPORT
No. 93-1085

BENEFITS TO MEMBERS OF THE
COAST GUARD RESERVE

RE P O R T

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 2149

TO AMEND TITLE 10, UNITED STATES CODE, TO PROVIDE
CERTAIN BENEFITS TO MEMBERS OF THE COAST GUARD
RESERVE, AND FOR OTHER PURPOSES



AUGUST 12, 1974.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

38-010

WASHINGTON : 1974

BENEFITS TO MEMBERS OF THE COAST GUARD RESERVE

AUGUST 12, 1974.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 2149]

The Committee on Commerce, to which was referred the bill (S. 2149), to amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment follows:

On page 2, line 6, add the word "and" following the semicolon.

On page 2, strike out lines 7 through 12 and insert in lieu thereof the following:

(3) by adding "or title 14" at the end of the first sentence in subsection (e).

PURPOSE

The purpose of S. 2149 is to amend title 10, United States Code, in order to ensure that Coast Guard Reservists have the same obligations and benefits regarding retention and retirement as do the Reservists of the other armed forces.

BACKGROUND AND NEED

Members of the Coast Guard Reserve perform training activities similar to those required of the members of the Reserve components of the other armed forces, and they are also subject to recall to active duty in time of war or national emergency. Additionally, Coast Guard Reservists are subject to active duty for the augmentation of Regular Coast Guard forces during times of serious natural or man-made domestic disasters, accidents, or catastrophes.

Prior to the enactment of sections 1005 and 1006 of title 10, similar provisions had existed which applied to all Reserve Officers, including Coast Guard Reservists. Inadvertently when these provisions were codified in title 10, the reference to Reserve officers was changed from "any" Reserve officer to "a Reserve commissioned officer . . . of this title". The provisions relating to Coast Guard Reserve officers, however, are generally found not in title 10, but rather in title 14. Therefore, the reference to a Reserve commissioned officer of title 10 could be interpreted as not including a Coast Guard Reservist. The amendments sought by S. 2149, as amended by the Committee, are intended to clarify the existing law to ensure the application of sections 1005 and 1006 of title 10 to Coast Guard Reserve Officers.

The proposed amendment to section 1005 of title 10 would provide that Coast Guard Reserve officers could not be discharged or transferred from an active status as a result of personnel actions stemming from their unsatisfactory participation while serving service required of them under any law.

The proposed amendments to subsections (a) and (b) of section 1006 of title 10 would protect Coast Guard Reserve officers from being involuntary discharged or transferred from the active Reserve or an active duty status when they are approaching eligibility for retirement. The amendment to subsection (c) of section 1006 of title 10 would make Reserve officers of the Coast Guard, Navy, and Marine Corps, retained under that section, extra numbers for purposes of authorized active duty personnel levels. This is similar to the treatment currently afforded Reservists of the Army and Air Force. This is necessary so that their retention does not block the normal promotion flow of other Reservists.

The proposed amendment to section 684 of title 10 is merely editorial in nature and conforms that section to section 755 of title 14.

The Committee held hearings on May 14, 1974. All testimony received was favorable. The bill, as amended by the Committee, was ordered favorably reported without objection.

EXPLANATIONS OF AMENDMENTS

The amendments proposed by the Committee to S. 2149 are technical in nature and relate only to subsection (e) of section 1006 of title 10 by the insertion of one general reference to title 14 therein, rather than three specific references to various sections of that title.

ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that no additional costs will be incurred by the Government as a result of the enactment of this legislation.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SECTION 684 OF TITLE 10, UNITED STATES CODE

Sec. 684. Payment of certain Reserves while on duty

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, [or Marine Corps] *Marine Corps, or Coast Guard* who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

- (1) . . .
- (2) . . .

(b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a)(2), a Reserve of the Army, Navy, Air Force, [or Marine Corps] *Marine Corps, or Coast Guard* who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents are unaffected by this subsection.

SECTION 1005 OF TITLE 10, UNITED STATES CODE

Sec. 1005. Commissioned officers: retention until completion of required service.

A reserve commissioned officer, other than a commissioned warrant officer, who has not completed the period of service required of him by section 651 of this title or any other provision of law, may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title [.] or chapter 21 of title 14. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade.

SECTION 1006 OF TITLE 10, UNITED STATES CODE

Sec. 1006. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

- (1) . . .
- (2) . . .

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

- (1)
- (2)

(c) An officer [of the Army or the Air Force] who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.

- (d)

- (1)
- (2)

(e) A reserve commissioned officer on active duty (other than for training) who, on the date on which he would otherwise be removed from an active status under sections 3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 787 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by sections 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in sections 3843, 3844, or 3845 of this title, or section 21(e) of the Act enacting this section, as the case may be.

AGENCY COMMENTS

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 29, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning S. 2149, a bill "To amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes."

The bill would amend sections 684, 1005, and 1006 of title 10, United States Code, to extend the benefits and protections of these provisions which are currently enjoyed by the Reservists of the other Armed Forces to members of the Coast Guard Reserve.

The Department of Transportation supports enactment of S. 2149.

The proposed amendment to section 684 of title 10, United States Code, is primarily editorial in nature. Coast Guard Reservists currently enjoy the benefits of this section under the authority of section 755 of title 14, United States Code.

The proposed amendment to section 1005 of title 10, United States Code, would impose a statutory requirement that a Coast Guard Reservist could not be discharged or transferred from active status while serving required service under section 651 of title 10, United States Code.

The proposed amendment to subsections (a) and (b) of section 1006 of title 10, United States Code, would afford Coast Guard Reserve Officers protection from involuntary discharge or transfer from an active duty status when those officers are approaching retirement. These subsections provide that commissioned reserve officers who have completed 18 or 19 years of service may continue on active duty for a limited period sufficient to allow them to achieve retirement. The amendment to subsection (c) provides that a member retained under section 1006 will be an additional number to those otherwise authorized. This authority is necessary to avoid blocking the promotion flow of members otherwise retained.

Enactment of S. 2149 would not result in significant increased costs to the Coast Guard during the five years following enactment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Committee.

Sincerely,

J. THOMAS TIDD,
Acting General Counsel.



EQUALIZING CERTAIN ENTITLEMENTS FOR COAST GUARD RESERVE OFFICERS

DECEMBER 10, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FISHER, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany S. 2149]

The Committee on Armed Services, to whom was referred the bill (S. 2149) to provide certain benefits to members of the Coast Guard Reserve, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 1, line 3, of the bill after the word "section" the number "684" is substituted for the number "680."

EXPLANATION OF THE AMENDMENT

The Committee amendment is corrective in nature to cure an inadvertent mistake which occurred in the citation of an affected section of the law. The mistake appears in the final version of the Senate passed version, and incorrectly cites Section 680 in line of the bill, rather than the appropriate section, 684.

PURPOSE OF THE BILL

This legislation is intended primarily to provide certain entitlements to Coast Guard Reserve officers which are currently available to reserve officers in the other services. There is no reason to distinguish between Reserve Officers of the various services in these entitlements, and it seems that this situation resulted from a drafting oversight in the codification of title 10, United States Code.

Prior to the enactment of sections 1005 and 1006 of title 10, the statute governing this subject applied to all Reserve officers. However, when title 10 was codified the reference to "any" Reserve officer was changed to "a Reserve commissioned officer . . . of this title." The

provisions of the law which are concerned with Coast Guard Reserve officers are contained in title 14 of the Code. Because this omission could be misconstrued, this legislation is necessary to formally clarify the position of Coast Guard Reserve officers in this regard.

The amendment to section 684 of title 10 clarifies the eligibility of Coast Guard Reserve officers to the same compensation provided Reserve officers of the other services when these Reserve officers are called back to active duty after having retired from military service.

Section 1005 of title 10 proscribes the transfer or discharge of Reserve officers from active status as a result of personnel actions based on certain unsatisfactory service while these officers are performing obligated service. The amendment to this section places Coast Guard Reserve officers under the same proscription. It should be noted that this section does not, of course, prevent the services from discharging an individual for cause.

The proposed amendments to subsection a) and b) of section 1006 of title 10 will protect Coast Guard Reserve officers from being involuntarily discharged or transferred from active status in the Reserve or active duty when they have completed 18 or 19 years of service for purposes of retirement.

Officers in the Coast Guard Reserve, Naval Reserve, and Marine Corps Reserve retained by the sanctuary provisions of subsections (a) and (b) of section 1006 will not be counted against authorized numbers by the amendment to subsection (c) of section 1006—a situation which is currently afforded Reservists in the Army and the Air Force. The effect of the amendment, beyond providing uniformity between the services, will be to keep these individuals from blocking promotion opportunities for other Reserve officers.

The amendment to subsection (e) of section 1006 will insure consistency with the other Reserve components in terms of maximum age limits at which transfer or discharge is required.

FISCAL DATA

This legislation will not result in an increase in the budgetary requirements of the Department of Defense.

DEPARTMENTAL POSITION

This bill, to which the Office of Management and Budget interposes no objection, is part of the legislative program of the Department of Defense, as indicated in the following correspondence.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation "To amend title 10, United States Code, to provide

certain benefits to members of the Coast Guard Reserve, and for other purposes."

This proposal is part of the Department of Defense Legislative Program for the 93rd Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to expand the scope of those sections of title 10, United States Code, applicable to members of the reserve components of the other armed services to include members of the Coast Guard Reserve. This will have the effect of providing the Coast Guard Reservist, while on active duty, the same benefits enjoyed by members of the other reserve components.

Members of the Coast Guard Reserve are subject to recall to active duty in the same way as members of reserve components of the Army, Navy, Air Force, and Marine Corps. They can be, and often are, subjected to the same type of duty as other Reservists, including duty in hostile fire areas. It is therefore only equitable that they receive the same rights and benefits as these other Reservists.

The provisions of this bill will make members of the Coast Guard Reserve eligible for the same compensation now provided members of other Reserve components, will insure that officers of the Coast Guard Reserve are not discharged or transferred from an active reserve status before completing the service required by section 651 of title 10, United States Code, and will insure that officers of the Coast Guard Reserve who have completed 18, but less than 20, years of service are afforded the same opportunity for retention available to members of other reserve components. Finally, the proposed legislation provides that an officer of the Coast Guard Reserve who is retained under its provisions will be an additional number to those otherwise authorized. It is felt that enactment of this legislation will place members of the Coast Guard Reserve on an equal footing with reserve members of the other armed forces.

It is arguable that most, if not all, of the above benefits are currently available to Coast Guard Reservists by virtue of the assimilation provisions contained in section 755 of title 14, United States Code. However, it is felt that in order to be certain that all of the benefits are provided, title 10 should be amended to specifically include the Coast Guard Reserve.

Subsection (c) of section 1006, title 10, United States Code, provides that an officer of the Army or the Air Force who is retained in an active status under subsection (a) or (b) of that section is an additional number to those otherwise authorized. It is felt that this provision is inequitable as it now stands and should apply to all the armed forces. Therefore, the phrase "of the Army or the Air Force" is stricken in section 3(2) of the proposed bill.

COST AND BUDGET DATA

There will be no increased cost to the Department of Defense nor to the Department of Transportation as a result of this proposed legislation.

Sincerely yours,

JOHN W. WARNER,
Secretary of the Navy.

Enclosure: Draft bill.

A BILL To amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 684 of title 10, United States Code, is amended by striking out "or Marine Corps" and inserting in place thereof "Marine Corps, or Coast Guard" in subsections (a) and (b). SEC. 2. Section 1005 of title 10, United States Code, is amended by striking out the period at the end of the first sentence and adding "or chapter 21 of title 14." SEC. 3. Section 1006 of title 10, United States Code, is amended—

- (1) by adding "or chapter 21 of title 14," after "or 863 of this title" in subsections (a) and (b);
- (2) by striking out "of the Army or the Air Force" in subsection (c);
- (3) by adding "or section 291 of title 14," after "or 8911 of this title," in subsection (e);
- (4) by adding "or section 787 of title 14," after "or 3852 of this title," in subsection (e); and
- (5) by adding "or section 789 of title 14," after "or 3845 of this title," in subsection (e).

COMMITTEE POSITION

The Committee on Armed Services on December 10, 1974 a quorum being present, unanimously endorsed enactment of the bill.

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there is printed below in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill as reported.

EXISTING LAW

SECTION 684 OF TITLE 10 UNITED STATES CODE

§ 684. Payment of certain Reserves while on duty

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, or Marine Corps who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

- (1) the payments to which he is entitled because of his earlier military service; or
 - (2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing.
- (b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a)(2), a Reserve of the Army, Navy, Air Force, or Marine Corps who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to

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perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents are unaffected by this subsection. Added Pub. L. 85-861, § 1(15), Sept. 2, 1958, 72 Stat. 1441.

SECTION 1005 OF TITLE 10, UNITED STATES CODE

§ 1005. Commissioned officers: retention until completion of required service

A reserve commissioned officer, other than a commissioned warrant officer, who has not completed the period of service required of him by section 651 of this title or any other provision of law, may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade. Added Pub. L. 85-861, § 1(22) (B), Sept. 2, 1958, 72 Stat. 1444.

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SEC. 2. Section 1005 of title 10, United States Code, is amended by striking out the period at the end of the first sentence and adding "or chapter 21 of title 14."

* * * *

SECTION 1006 OF TITLE 10, UNITED STATES CODE

§ 1006. Commissioned officers: retention after completing 18 or more, but less than 20, years of service

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

(2) the third anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

SEC. 3. Section 1006 of title 10, United States Code, is amended—

(1) by adding "or chapter 21 of title 14," after "or 863 of this title" in subsections (a) and (b);

(2) by striking out "of the Army or the Air Force" in subsection (c); and

(3) by adding "or title 14" at the end of the first sentence in subsection (e).

EXISTING LAW

- (2) the second anniversary of the date on which he would otherwise be discharged or transferred from an active status.
- (c) An officer of the Army or the Air Force who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.
- (d) Subsections (a) and (b) do not apply to—
- (1) officers who are discharged or transferred from an active status for physical disability, for cause, or because they have reached the age at which transfer from an active status or discharge is required by law; or
 - (2) Commissioned warrant officers.
- (e) A reserve commissioned officer on active duty (other than for training) who on the date on which he would otherwise be removed from an active status under sections

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3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 787 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by sections 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in sections 3843, 3844, or 3845 of this title, or section 21(e) of the Act enacting this section, as the case may be. As amended Pub. L. 86-559, § 1(3)(A), June 30, 1960, 74 Stat. 264;

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SUMMARY**PURPOSE OF THE BILL**

To provide certain benefits to members of the Coast Guard Reserve, and for other purposes. These benefits are currently available to Reservists in the other services, but were left out through an apparent oversight when title 10 was codified.

FISCAL DATA

This legislation will not result in an increase in the budgetary requirements of the Department of Defense.

DEPARTMENTAL POSITION

The Department of Defense supports this legislation and the Office of Management and Budget interposes no objection.

COMMITTEE POSITION

The Committee on Armed Services on December 10, 1974, a quorum being present, unanimously endorsed enactment of the bill.



EQUALIZING CERTAIN ENTITLEMENTS FOR COAST GUARD RESERVE OFFICERS

DECEMBER 10, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FISHER, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany S. 2149]

The Committee on Armed Services, to whom was referred the bill (S. 2149) to provide certain benefits to members of the Coast Guard Reserve, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 1, line 3, of the bill after the word "section" the number "684" is substituted for the number "680."

EXPLANATION OF THE AMENDMENT

The Committee amendment is corrective in nature to cure an inadvertent mistake which occurred in the citation of an affected section of the law. The mistake appears in the final version of the Senate passed version, and incorrectly cites Section 680 in line of the bill, rather than the appropriate section, 684.

PURPOSE OF THE BILL

This legislation is intended primarily to provide certain entitlements to Coast Guard Reserve officers which are currently available to reserve officers in the other services. There is no reason to distinguish between Reserve Officers of the various services in these entitlements, and it seems that this situation resulted from a drafting oversight in the codification of title 10, United States Code.

Prior to the enactment of sections 1005 and 1006 of title 10, the statute governing this subject applied to all Reserve officers. However, when title 10 was codified the reference to "any" Reserve officer was changed to "a Reserve commissioned officer . . . of this title." The

provisions of the law which are concerned with Coast Guard Reserve officers are contained in title 14 of the Code. Because this omission could be misconstrued, this legislation is necessary to formally clarify the position of Coast Guard Reserve officers in this regard.

The amendment to section 684 of title 10 clarifies the eligibility of Coast Guard Reserve officers to the same compensation provided Reserve officers of the other services when these Reserve officers are called back to active duty after having retired from military service.

Section 1005 of title 10 proscribes the transfer or discharge of Reserve officers from active status as a result of personnel actions based on certain unsatisfactory service while these officers are performing obligated service. The amendment to this section places Coast Guard Reserve officers under the same proscription. It should be noted that this section does not, of course, prevent the services from discharging an individual for cause.

The proposed amendments to subsection a) and b) of section 1006 of title 10 will protect Coast Guard Reserve officers from being involuntarily discharged or transferred from active status in the Reserve or active duty when they have completed 18 or 19 years of service for purposes of retirement.

Officers in the Coast Guard Reserve, Naval Reserve, and Marine Corps Reserve retained by the sanctuary provisions of subsections (a) and (b) of section 1006 will not be counted against authorized numbers by the amendment to subsection (c) of section 1006—a situation which is currently afforded Reservists in the Army and the Air Force. The effect of the amendment, beyond providing uniformity between the services, will be to keep these individuals from blocking promotion opportunities for other Reserve officers.

The amendment to subsection (e) of section 1006 will insure consistency with the other Reserve components in terms of maximum age limits at which transfer or discharge is required.

FISCAL DATA

This legislation will not result in an increase in the budgetary requirements of the Department of Defense.

DEPARTMENTAL POSITION

This bill, to which the Office of Management and Budget interposes no objection, is part of the legislative program of the Department of Defense, as indicated in the following correspondence.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation "To amend title 10, United States Code, to provide

certain benefits to members of the Coast Guard Reserve, and for other purposes."

This proposal is part of the Department of Defense Legislative Program for the 93rd Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to expand the scope of those sections of title 10, United States Code, applicable to members of the reserve components of the other armed services to include members of the Coast Guard Reserve. This will have the effect of providing the Coast Guard Reservist, while on active duty, the same benefits enjoyed by members of the other reserve components.

Members of the Coast Guard Reserve are subject to recall to active duty in the same way as members of reserve components of the Army, Navy, Air Force, and Marine Corps. They can be, and often are, subjected to the same type of duty as other Reservists, including duty in hostile fire areas. It is therefore only equitable that they receive the same rights and benefits as these other Reservists.

The provisions of this bill will make members of the Coast Guard Reserve eligible for the same compensation now provided members of other Reserve components, will insure that officers of the Coast Guard Reserve are not discharged or transferred from an active reserve status before completing the service required by section 651 of title 10, United States Code, and will insure that officers of the Coast Guard Reserve who have completed 18, but less than 20, years of service are afforded the same opportunity for retention available to members of other reserve components. Finally, the proposed legislation provides that an officer of the Coast Guard Reserve who is retained under its provisions will be an additional number to those otherwise authorized. It is felt that enactment of this legislation will place members of the Coast Guard Reserve on an equal footing with reserve members of the other armed forces.

It is arguable that most, if not all, of the above benefits are currently available to Coast Guard Reservists by virtue of the assimilation provisions contained in section 755 of title 14, United States Code. However, it is felt that in order to be certain that all of the benefits are provided, title 10 should be amended to specifically include the Coast Guard Reserve.

Subsection (c) of section 1006, title 10, United States Code, provides that an officer of the Army or the Air Force who is retained in an active status under subsection (a) or (b) of that section is an additional number to those otherwise authorized. It is felt that this provision is inequitable as it now stands and should apply to all the armed forces. Therefore, the phrase "of the Army or the Air Force" is stricken in section 3(2) of the proposed bill.

COST AND BUDGET DATA

There will be no increased cost to the Department of Defense nor to the Department of Transportation as a result of this proposed legislation.

Sincerely yours,

JOHN W. WARNER,
Secretary of the Navy.

Enclosure: Draft bill.

A BILL To amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 684 of title 10, United States Code, is amended by striking out "or Marine Corps" and inserting in place thereof "Marine Corps, or Coast Guard" in subsections (a) and (b). SEC. 2. Section 1005 of title 10, United States Code, is amended by striking out the period at the end of the first sentence and adding "or chapter 21 of title 14."

SEC. 3. Section 1006 of title 10, United States Code, is amended—

- (1) by adding "or chapter 21 of title 14," after "or 863 of this title" in subsections (a) and (b);
- (2) by striking out "of the Army or the Air Force" in subsection (c);
- (3) by adding "or section 291 of title 14," after "or 8911 of this title," in subsection (e);
- (4) by adding "or section 787 of title 14," after "or 3852 of this title," in subsection (e); and
- (5) by adding "or section 789 of title 14," after "or 3845 of this title," in subsection (e).

COMMITTEE POSITION

The Committee on Armed Services on December 10, 1974 a quorum being present, unanimously endorsed enactment of the bill.

CHANGES IN EXISTING LAW

In compliance with clause 3 or rule XIII of the Rules of the House of Representatives, there is printed below in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill as reported.

THE BILL AS REPORTED

S. 2149 AS AMENDED

EXISTING LAW

SECTION 684 OF TITLE 10 UNITED STATES CODE

§ 684. Payment of certain Reserves while on duty

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, or Marine Corps who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

- (1) the payments to which he is entitled because of his earlier military service; or
- (2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing.

(b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a) (2), a Reserve of the Army, Navy, Air Force, or Marine Corps who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to

be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section **[680]** 684 of title 10, United States Code, is amended by striking out "or Marine Corps" and inserting in place thereof "Marine Corps, or Coast Guard" in subsections (a) and (b).

EXISTING LAW

THE BILL AS REPORTED

perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents are unaffected by this subsection. Added Pub. L. 85-861, § 1(15), Sept. 2, 1958, 72 Stat. 1441.

SECTION 1005 OF TITLE 10, UNITED STATES CODE

§ 1005. Commissioned officers: retention until completion of required service

A reserve commissioned officer, other than a commissioned warrant officer, who has not completed the period of service required of him by section 651 of this title or any other provision of law, may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade. Added Pub. L. 85-861, § 1(22) (B), Sept. 2, 1958, 72 Stat. 1444.

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SEC. 2. Section 1005 of title 10, United States Code, is amended by striking out the period at the end of the first sentence and adding "or chapter 21 of title 14."

SECTION 1006 OF TITLE 10, UNITED STATES CODE

§ 1006. Commissioned officers: retention after completing 18 or more, but less than 20, years of service

(a) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 18, but less than 19, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

(2) the third anniversary of the date on which he would otherwise be discharged or transferred from an active status.

(b) If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he is entitled to be credited with at least 19, but less than 20, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title without his consent before the earlier of the following dates—

(1) the date on which he is entitled to be credited with 20 years of service computed under section 1332 of this title; or

SEC. 3. Section 1006 of title 10, United States Code, is amended—

(1) by adding "or chapter 21 of title 14," after "or 863 of this title" in subsections (a) and (b);

(2) by striking out "of the Army or the Air Force" in subsection (c); and

(3) by adding "or title 14" at the end of the first sentence in subsection (e).

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- (2) the second anniversary of the date on which he would otherwise be discharged or transferred from an active status.
- (c) An officer of the Army or the Air Force who is retained in an active status under subsection (a) or (b) is an additional number to those otherwise authorized.
- (d) Subsections (a) and (b) do not apply to—
- (1) officers who are discharged or transferred from an active status for physical disability, for cause, or because they have reached the age at which transfer from an active status or discharge is required by law;
 - or
 - (2) Commissioned warrant officers.
- (e) A reserve commissioned officer on active duty (other than for training) who on the date on which he would otherwise be removed from an active status under sections

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3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 787 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by sections 3846, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in sections 3843, 3844, or 3845 of this title, or section 21(e) of the Act enacting this section, as the case may be. As amended Pub. L. 86-559, § 1(3)(A), June 30, 1960, 74 Stat. 264;

SUMMARY**PURPOSE OF THE BILL**

To provide certain benefits to members of the Coast Guard Reserve, and for other purposes. These benefits are currently available to Reservists in the other services, but were left out through an apparent oversight when title 10 was codified.

FISCAL DATA

This legislation will not result in an increase in the budgetary requirements of the Department of Defense.

DEPARTMENTAL POSITION

The Department of Defense supports this legislation and the Office of Management and Budget interposes no objection.

COMMITTEE POSITION

The Committee on Armed Services on December 10, 1974, a quorum being present, unanimously endorsed enactment of the bill.



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begin and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend title 10, United States Code, to provide certain benefits to members
of the Coast Guard Reserve, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,* That section 684 of
title 10, United States Code, is amended by striking out “or Marine
Corps” and inserting in place thereof “Marine Corps, or Coast Guard”
in subsections (a) and (b).

SEC. 2. Section 1005 of title 10, United States Code, is amended by
striking out the period at the end of the first sentence and adding “or
chapter 21 of title 14.”

SEC. 3. Section 1006 of title 10, United States Code, is amended—
(1) by adding “or chapter 21 of title 14,” after “or 863 of this
title” in subsections (a) and (b);
(2) by striking out “of the Army or the Air Force” in subsec-
tion (c); and
(3) by adding “or title 14” at the end of the first sentence in
subsection (e).

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*