

Subtitle H—Military Compensation and Retirement Modernization Commission

SEC. 671. PURPOSE, SCOPE, AND DEFINITIONS.

(a) **PURPOSE.**—The purpose of this subtitle is to establish the Military Compensation and Retirement Modernization Commission to conduct a review of the military compensation and retirement systems and to make recommendations to modernize such systems in order to—

Establishment.

(1) ensure the long-term viability of the All-Volunteer Force by sustaining the required human resources of that force during all levels of conflict and economic conditions;

(2) enable the quality of life for members of the Armed Forces and the other uniformed services and their families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other uniformed services; and

(3) modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other uniformed services for the 21st century.

(b) **SCOPE OF REVIEW.**—

(1) **REQUIRED ELEMENTS OF REVIEW.**—In order to provide the fullest understanding of the matters required to balance the primary purpose of the review specified in subsection (a), the Commission shall make its recommendations for changes to the military compensation and retirement systems only after—

Recommendations.

(A) examining all laws, policies, and practices of the Federal Government that result in any direct payment of authorized or appropriated funds to—

(i) current and former members (veteran and retired) of the uniformed services, including the reserve components of those services; and

(ii) the spouses, family members, children, survivors, and other persons authorized to receive such payments as a result of their connection to the members of the uniformed services named in clause (i);

(B) examining all laws, policies, and practices of the Federal Government that result in any expenditure of authorized or appropriated funds to support the persons named in subparagraph (A) and their quality of life, including—

(i) health, disability, survivor, education, and dependent support programs of the Department of Defense and the Department of Veterans Affairs, including outlays from the various Federal trust funds supporting those programs;

(ii) Department of Education impact aid;

(iii) support or funding provided to States, territories, colleges and universities;

(iv) Department of Defense morale, recreation, and welfare programs, the resale programs (military exchanges and commissaries), and dependent school system;

(v) the tax treatment of military compensation and benefits; and

(vi) military family housing; and

(C) such other matters as the Commission considers appropriate.

(2) PRIORITIES.—In weighing its recommendations on those matters necessary to sustain the human resources of the All-Volunteer Force, the Commission shall—

(A) pay particular attention to the interrelationships and interplay of impact between and among the various programs of the Federal Government, especially as those programs influence decisions of persons about joining the uniformed services and of members of the uniformed services about remaining in the those services; and

(B) closely weigh its recommendations regarding the web of interrelated programs supporting spouses and families of members of the uniformed services, so that changes in such programs do not adversely impact decisions to remain in the uniformed services.

(3) EXCEPTION.—The Commission shall not examine any program that uses appropriated funding for initial entry training or unit training of members of the uniformed services.

(c) DEFINITIONS.—In this subtitle:

(1) The term “Armed Forces” has the meaning given the term “armed forces” in section 101(a)(4) of title 10, United States Code.

(2) The term “Commission” means the Military Compensation and Retirement Modernization Commission established by section 672.

(3) The term “Commission establishment date” means the first day of the first month beginning on or after the date of the enactment of this Act.

(4) The term “military compensation and retirement systems” means the military compensation system and the military retirement system.

(5) The term “military compensation system” means provisions of law providing eligibility for and the computation of military compensation, including regular military compensation, special and incentive pays and allowances, medical and dental care, educational assistance and related benefits, and commissary and exchange benefits and related benefits and activities.

(6) The term “military retirement system” means retirement benefits, including retired pay based upon service in the uniformed services and survivor annuities based upon such service.

(7) The term “Secretary” means the Secretary of Defense.

(8) The term “uniformed services” has the meaning given that term in section 101(a)(5) of title 10, United States Code.

(9) The terms “veterans service organization” and “military-related advocacy group or association” mean an organization whose primary purpose is to advocate for veterans, military personnel, military retirees, or military families.

SEC. 672. MILITARY COMPENSATION AND RETIREMENT MODERNIZATION COMMISSION.

(a) ESTABLISHMENT.—There is established in the executive branch an independent commission to be known as the Military Compensation and Retirement Modernization Commission. The

Commission shall be considered an independent establishment of the Federal Government as defined by section 104 of title 5, United States Code, and a temporary organization under section 3161 of such title.

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of nine members appointed as follows:

(A) The President shall appoint one member.

President.

(B) The Majority Leader of the Senate, in consultation with the Chairman of the Committee on Armed Services of the Senate, shall appoint two members.

(C) The Minority Leader of the Senate, in consultation with the Ranking Member of the Committee on Armed Services of the Senate, shall appoint two members.

(D) The Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Armed Services of the House of Representatives, shall appoint two members.

(E) The Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Armed Services of the House of Representatives, shall appoint two members.

(2) DEADLINE FOR APPOINTMENT.—Members shall be appointed to the Commission under paragraph (1) not later than four months after the Commission establishment date.

(3) QUALIFICATIONS OF INDIVIDUALS APPOINTED.—In appointing members of the Commission, the President and Members of Congress specified in paragraph (1) shall ensure that, collectively, there are members with significant expertise regarding the matters described in section 671. The types of specific expertise and experience to be considered include the following:

President.
Congress.

(A) Federal civilian employee compensation and retirement.

(B) Military compensation and retirement.

(C) Private sector compensation, retirement, or human resource systems.

(D) Active duty service in a regular component of the uniformed services.

(E) Service in a reserve component.

(F) Experience as a spouse of a member of the uniformed services.

(G) Service as an enlisted member of the uniformed services.

(H) Military family policy development and implementation.

(I) Department of Veterans Affairs benefit programs.

(J) Actuarial science.

(4) LIMITATION.—An individual who, within the preceding year, has been employed by a veterans service organization or military-related advocacy group or association may not be appointed to the Commission.

(c) CHAIR.—The President shall designate one of the members of the Commission to be Chair of the Commission. The individual designated as Chair of the Commission shall be a person who has expertise in the military compensation and retirement systems. The Chair, or the designee of the Chair, shall preside over meetings

President.

of the Commission and be responsible for establishing the agenda of Commission meetings and hearings.

(d) **TERMS.**—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner as the original appointment was made.

(e) **STATUS AS FEDERAL EMPLOYEES.**—Notwithstanding the requirements of section 2105 of title 5, United States Code, including the required supervision under subsection (a)(3) of such section, the members of the Commission shall be deemed to be Federal employees.

(f) **PAY FOR MEMBERS OF THE COMMISSION.**—

(1) **IN GENERAL.**—Each member, other than the Chair, of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) **CHAIR.**—The Chair of the Commission shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule under section 5314, of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

Deadlines.

SEC. 673. COMMISSION HEARINGS AND MEETINGS.

Public information.
Web posting.

(a) **IN GENERAL.**—The Commission shall conduct hearings on the recommendations it is taking under consideration. Any such hearing, except a hearing in which classified information is to be considered, shall be open to the public. Any hearing open to the public shall be announced on a Federal website at least 14 days in advance. For all hearings open to the public, the Commission shall release an agenda and a listing of materials relevant to the topics to be discussed.

Lists.

(b) **MEETINGS.**—

(1) **INITIAL MEETING.**—The Commission shall hold its initial meeting not later than 30 days after the date as of which all members have been appointed.

(2) **SUBSEQUENT MEETINGS.**—After its initial meeting, the Commission shall meet upon the call of the Chair or a majority of its members.

(3) **PUBLIC MEETINGS.**—Each meeting of the Commission shall be held in public unless any member objects.

(c) **QUORUM.**—Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) **PUBLIC COMMENTS.**—

(1) **SOLICITATION.**—The Commission shall seek written comments from the general public and interested parties on measures to modernize the military compensation and retirement systems. Comments shall be requested through a solicitation in the Federal Register and announcement on the Internet website of the Commission.

Federal Register,
publication.
Web posting.

(2) **PERIOD FOR SUBMITTAL.**—The period for the submittal of comments pursuant to the solicitation under paragraph (1) shall end not earlier than 30 days after the date of the solicitation and shall end on or before the date on which the Secretary

transmits the recommendations of the Secretary to the Commission under section 674(b).

(3) USE BY COMMISSION.—The Commission shall consider the comments submitted under this subsection when developing its recommendations.

(e) SPACE FOR USE OF COMMISSION.—Not later than 90 days after the date of the enactment of this Act, the Administrator of General Services, in consultation with the Secretary, shall identify and make available suitable excess space within the Federal space inventory to house the operations of the Commission. If the Administrator is not able to make such suitable excess space available within such 90-day period, the Commission may lease space to the extent the funds are available.

(f) CONTRACTING AUTHORITY.—The Commission may acquire administrative supplies and equipment for Commission use to the extent funds are available.

SEC. 674. PRINCIPLES AND PROCEDURE FOR COMMISSION RECOMMENDATIONS.

(a) CONTEXT OF COMMISSION REVIEW.—The Commission shall conduct a review of the matters described in section 671, including current military compensation and retirement systems, force management objectives, and changes in life expectancy and the labor force.

(b) DEVELOPMENT OF COMMISSION RECOMMENDATIONS.—

(1) CONSISTENCY WITH PRESIDENTIAL PRINCIPLES.—Subject to paragraph (2), the Commission shall develop recommendations that are consistent with the principles established by the President under subsection (c) and section 671.

(2) GRANDFATHERING OF RETIRED PAY.—

(A) CONDITIONS.—In developing its recommendations, the Commission shall comply with the following conditions with regard to the treatment of retired pay for members and retired members of the uniformed services who joined a uniformed service before the date of the enactment of an Act to modernize the military compensation and retirement systems:

Compliance.

(i) For members of the uniformed services as of such date, who became members before the enactment of such an Act, the monthly amount of their retired pay may not be less than they would have received under the current military compensation and retirement system, nor may the date at which they are eligible to receive their military retired pay be adjusted to the financial detriment of the member.

(ii) For members of the uniformed services retired as of such date, the eligibility for and receipt of their retired pay may not be adjusted pursuant to any change made by the enactment of such an Act.

(B) VOLUNTARY ELECTION EXCEPTION.—Nothing in subparagraph (A) prevents a member described in such subparagraph from voluntarily electing to be covered under the provisions of an Act to modernize the military compensation and retirement systems.

(c) PRESIDENTIAL PRINCIPLES.—Not later than five months after the Commission establishment date, the President shall establish

Deadline.

and transmit to the Commission and Congress principles for modernizing the military compensation and retirement systems. The principles established by the President shall address the following:

(1) Maintaining recruitment and retention of the best military personnel.

(2) Modernizing the regular and reserve military compensation and retirement systems.

(3) Differentiating between regular and reserve military service.

(4) Differentiating between service in the Armed Forces and service in the other uniformed services.

(5) Assisting with force management.

(6) Ensuring the fiscal sustainability of the military compensation and retirement systems.

(7) Compliance with the purpose and scope of the review prescribed in section 671.

(d) SECRETARY OF DEFENSE RECOMMENDATIONS.—

(1) DEADLINE.—Not later than nine months after the Commission establishment date, the Secretary shall transmit to the Commission the recommendations of the Secretary for modernization of the military compensation and retirement systems. The Secretary shall concurrently transmit the recommendations to Congress.

(2) DEVELOPMENT OF RECOMMENDATIONS.—The Secretary shall develop the recommendations of the Secretary under paragraph (1)—

(A) on the basis of the principles established by the President pursuant to subsection (c);

(B) in consultation with the Secretary of Homeland Security, with respect to recommendations concerning members of the Coast Guard;

(C) in consultation with the Secretary of Health and Human Services, with respect to recommendations concerning members of the Public Health Service;

(D) in consultation with the Secretary of Commerce, with respect to recommendations concerning members of the National Oceanic and Atmospheric Administration; and

(E) in consultation with the Director of the Office of Management and Budget.

(3) JUSTIFICATION.—The Secretary shall include with the recommendations under paragraph (1) the justification of the Secretary for each recommendation.

(4) AVAILABILITY OF INFORMATION.—The Secretary shall make available to the Commission and to Congress the information used by the Secretary to prepare the recommendations of the Secretary under paragraph (1).

(e) COMMISSION HEARINGS ON RECOMMENDATIONS OF SECRETARY.—After receiving from the Secretary the recommendations of the Secretary for modernization of the military compensation and retirement systems under subsection (d), the Commission shall conduct public hearings on the recommendations.

(f) COMMISSION REPORT AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 15 months after the Commission establishment date, the Commission shall transmit to the President a report containing the findings and conclusions of the Commission, together with the recommendations of the Commission for the modernization of the military compensation

and retirement systems. The Commission shall include in the report legislative language to implement the recommendations of the Commission. The findings and conclusions in the report shall be based on the review and analysis by the Commission of the recommendations made by the Secretary under subsection (d).

(2) **REQUIREMENT FOR APPROVAL.**—The recommendations of the Commission must be approved by at least five members of the Commission before the recommendations may be transmitted to the President under paragraph (1).

(3) **PROCEDURES FOR CHANGING RECOMMENDATIONS OF SECRETARY.**—The Commission may make a change described in paragraph (4) in the recommendations made by the Secretary only if the Commission—

(A) determines that the change is consistent with the principles established by the President under subsection (c);

(B) publishes a notice of the proposed change not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (1); and

(C) conducts a public hearing on the proposed change.

(4) **COVERED CHANGES.**—Paragraph (3) applies to a change by the Commission in the recommendations of the Secretary that would—

(A) add a new recommendation;

(B) delete a recommendation; or

(C) substantially change a recommendation.

(5) **EXPLANATION AND JUSTIFICATION FOR CHANGES.**—The Commission shall explain and justify in its report submitted to the President under paragraph (1) any recommendation made by the Commission that is different from the recommendations made by the Secretary under subsection (d).

(6) **TRANSMITTAL TO CONGRESS.**—The Commission shall transmit a copy of its report to Congress on the same date on which it transmits its report to the President under paragraph (1).

Determination.

Notice.
Deadline.

Public
information.
Applicability.

Records.

SEC. 675. CONSIDERATION OF COMMISSION RECOMMENDATIONS BY THE PRESIDENT.

(a) **REPORT OF PRESIDENTIAL APPROVAL OR DISAPPROVAL.**—Not later than 60 days after the date on which the Commission transmits its report to the President under section 674, the President shall transmit to the Commission and to Congress a report containing the approval or disapproval by the President of the recommendations of the Commission in the report.

(b) **PRESIDENTIAL APPROVAL.**—If in the report under subsection (a) the President approves all the recommendations of the Commission, the President shall include with the report the following:

(1) A copy of the recommendations of the Commission.

(2) The certification by the President of the approval of the President of each recommendation.

(3) The legislative language transmitted by the Commission to the President as part of the report of the Commission.

(c) **PRESIDENTIAL DISAPPROVAL.**—

(1) **REASONS FOR DISAPPROVAL.**—If in the report under subsection (a) the President disapproves the recommendations of

Records.
Certification.

- the Commission, in whole or in part, the President shall include in the report the reasons for that disapproval.
- Deadline. (2) REVISED RECOMMENDATIONS FROM COMMISSION.—Not later than one month after the date of the report of the President under subsection (a) disapproving the recommendations of the Commission, the Commission shall transmit to the President revised recommendations for the modernization of the military compensation and retirement systems, together with revised legislative language to implement the revised recommendations of the Commission.
- Deadline. (3) ACTION ON REVISED RECOMMENDATIONS.—If the President approves all of the revised recommendations of the Commission transmitted pursuant to paragraph (2), the President shall transmit to Congress, not later than one month after receiving the revised recommendations, the following:
- Records. (A) A copy of the revised recommendations.
Certification. (B) The certification by the President of the approval of the President of each recommendation as so revised.
(C) The revised legislative language transmitted to the President.
- (d) TERMINATION OF COMMISSION.—If the President does not transmit to Congress an approval and certification described in subsection (b) or (c)(3) in accordance with the applicable deadline under such subsection, the Commission shall be terminated not later than one month after the expiration of the period for transmittal of a report under subsection (c)(3).

SEC. 676. EXECUTIVE DIRECTOR.

(a) APPOINTMENT.—The Commission shall appoint and fix the rate of basic pay for an Executive Director in accordance with section 3161 of title 5, United States Code.

(b) LIMITATIONS.—The Executive Director may not have served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment and may not have been employed by a veterans service organization or a military-related advocacy group or association during that one-year period.

SEC. 677. STAFF.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Executive Director, with the approval of the Commission, may appoint and fix the rate of basic pay for additional personnel as staff of the Commission in accordance with section 3161 of title 5, United States Code.

(b) LIMITATIONS ON STAFF.—

(1) NUMBER OF DETAILEES FROM EXECUTIVE DEPARTMENT.—Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense and other executive branch departments.

(2) PRIOR DUTIES WITHIN EXECUTIVE BRANCH.—A person may not be detailed from the Department of Defense or other executive branch department to the Commission if, in the year before the detail is to begin, that person participated personally and substantially in any matter concerning the preparation of recommendations for military compensation and retirement modernization.

(3) NUMBER OF DETAILEES ELIGIBLE FOR MILITARY RETIRED PAY.—Not more than one-fourth of the personnel employed

by or detailed to the Commission may be persons eligible for or receiving military retired pay.

(4) **PRIOR EMPLOYMENT WITH CERTAIN ORGANIZATIONS.**—A person may not be employed by or detailed to the Commission if, in the year before the employment or detail is to begin, that person was employed by a veterans service organization or a military-related advocacy group or association.

(c) **LIMITATIONS ON PERFORMANCE REVIEWS.**—No member of the uniformed services, and no officer or employee of the Department of Defense or other executive branch department, may—

(1) prepare any report concerning the effectiveness, fitness, or efficiency of the performance of the staff of the Commission or any person detailed to that staff;

(2) review the preparation of such a report; or

(3) approve or disapprove such a report.

SEC. 678. JUDICIAL REVIEW PRECLUDED.

The following shall not be subject to judicial review:

(1) Actions of the President, the Secretary, and the Commission under section 674.

(2) Actions of the President under section 675.

SEC. 679. TERMINATION.

Except as otherwise provided in this title, the Commission shall terminate not later than 26 months after the Commission establishment date.

SEC. 680. FUNDING.

Of the amounts authorized to be appropriated by this Act for the Department of Defense for fiscal year 2013, up to \$10,000,000 shall be made available to the Commission to carry out its duties under this subtitle. Funds made available to the Commission under the preceding sentence shall remain available until expended.

Subtitle I—Other Matters

SEC. 681. EQUAL TREATMENT FOR MEMBERS OF COAST GUARD RESERVE CALLED TO ACTIVE DUTY UNDER TITLE 14, UNITED STATES CODE.

(a) **INCLUSION IN DEFINITION OF CONTINGENCY OPERATION.**—Section 101(a)(13)(B) of title 10, United States Code, is amended by inserting “section 712 of title 14,” after “chapter 15 of this title.”

(b) **CREDIT OF SERVICE TOWARDS REDUCTION OF ELIGIBILITY AGE FOR RECEIPT OF RETIRED PAY FOR NON-REGULAR SERVICE.**—Section 12731(f)(2)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

“(iv) Service on active duty described in this subparagraph is also service on active duty pursuant to a call or order to active duty authorized by the Secretary of Homeland Security under section 712 of title 14 for purposes of emergency augmentation of the Regular Coast Guard forces.”

(c) **POST 9/11 EDUCATIONAL ASSISTANCE.**—Section 3301(1)(B) of title 38, United States Code, is amended by inserting “or section 712 of title 14” after “title 10”.

(d) **RETROACTIVE APPLICATION OF AMENDMENTS.**—

10 USC 101 note.