

Public Law 91-400

AN ACT

September 16, 1970
[H. R. 13434]

To provide for the disposition of judgment funds on deposit to the credit of the Hualapai Tribe of the Hualapai Reservation, Arizona, in Indian Claims Commission Dockets Numbered 90 and 122, and for other purposes.

Hualapai Tribe,
Ariz.
Judgment funds,
disposition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the unexpended balance of funds on deposit in the Treasury of the United States to the credit of the Hualapai Tribe of Indians that were appropriated to pay a judgment granted by the Indian Claims Commission in dockets Numbered 90 and 122, and the interest thereon, less payment of attorney fees and expenses, may be advanced, expended, invested or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

Tax exemption.

SEC. 2. Any part of such funds that may be distributed to members of the tribe shall not be subject to Federal or State income tax.

SEC. 3. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Approved September 16, 1970.

Public Law 91-401

AN ACT

September 16, 1970
[H. R. 14097]

To authorize the use of funds arising from a judgment in favor of the Citizen Band of Potawatomi Indians of Oklahoma in Indian Claims Commission Docket No. 96, and for other purposes.

Citizen Band of
Potawatomi In-
dians, Okla.
Judgment funds,
disposition.
83 Stat. 62.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the funds on deposit in the Treasury of the United States to the credit of the Citizen Band of Potawatomi Indians of Oklahoma that were appropriated by the Act of July 22, 1969 (Public Law 91-47) to pay a judgment by the Indian Claims Commission in docket numbered 96 dated August 27, 1968, and the interest thereon, including the interest accruing thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior. Any part of such funds that may be distributed per capita to the members of the band shall not be subject to Federal or State income tax.

Tax exemption.

SEC. 2. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Approved September 16, 1970.

Public Law 91-402

AN ACT

September 18, 1970
[H. R. 13716]

To improve and clarify certain laws affecting the Coast Guard Reserve.

Coast Guard
Reserve.
Promotion
system.
63 Stat. 554.
14 USC 762.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That title 14, United States Code, is amended as follows:

(1) Subsection (b) of section 762 is amended by striking out the words “, but not above the grade of captain”.

(2) Section 770 is amended by striking out the figure "795" in both of the places it appears and inserting in lieu thereof, the figure "798"; by redesignating clause "(9)" as "(10)"; and by adding a new clause "(9)" as follows:

72 Stat. 1547.
14 USC 770.

"(9) the 'active duty promotion list' is as defined in section 41a of this title."

(3) Section 772 is amended by inserting before the period in the second sentence of subsection (b) the phrase "or because an excess results directly from the operation of mandatory provisions of this or other laws".

74 Stat. 280.

(4) Section 774 is amended to read as follows:

"A Reserve officer must be in an active status to be eligible for consideration for promotion and to be promoted under this subchapter. Officers retained in an active status and excluded from promotion by the provisions of section 787 of this title are not eligible for consideration for promotion."

Eligibility.
72 Stat. 1549.

(5) Section 775 is amended by adding a new subsection (f) to read as follows:

Selection board,
membership re-
quirements.

"(f) Whenever a selection board is convened to consider officers of the Women's Reserve not serving on active duty, membership of the board shall include, when reasonably available, not less than two members of the Women's Reserve not serving on active duty."

(6) Section 780 is amended—

(A) by amending subsections (c) and (d) to read as follows:

"(c) Each selection board, from among those officers whose names are submitted to it as determined by section 783 of this title, shall recommend for promotion to the next high grade:

Recommendations;
method.

"(1) those male officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified;

"(2) those male officers serving in the grade of ensign whom it considers to be fully qualified;

"(3) those officers of the Women's Reserve serving in the grade of lieutenant or below whom it considers to be fully qualified; and

"(4) those officers of the Women's Reserve serving in the grade of lieutenant commander or above whom it considers to be best qualified. The recommendation of a selection board shall be based on comparative fitness for the duties to which officers of the Women's Reserve are normally assigned.

"(d) Before convening a board to recommend officers for promotion to any grade above lieutenant (junior grade), the Secretary shall determine the total number of officers to be selected for promotion to that grade. Unless the Secretary takes action pursuant to the provisions of subsection (c) of section 772 of this subchapter, this number shall be equal to the number of vacancies existing in the grade, plus the number of vacancies estimated for the next twelve months, less the number of officers on the promotion list for that grade."

(B) by adding a new subsection (i) to read as follows:

"(i) Vacancies in all grades shall be filled by the combined total of those officers, male and female, who have been selected for promotion. Selection opportunity for officers of the Women's Reserve to grades

Vacancies.

above lieutenant commander shall be equivalent to that prescribed for male officers of the same grades. Officers of the Women's Reserve being considered for promotion to the grades of lieutenant commander or below shall be considered and selected in their order of precedence up to the number designated to be selected."

(7) Section 781 is amended to read as follows:

"Officers of the Reserve shall have rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with the dates of rank as stated in their commissions. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, such officers shall take precedence as determined by the Secretary.

"Notwithstanding any other provision of law, Reserve officers shall not lose precedence when transferred from the Reserve promotion list to the active duty promotion list or vice versa nor shall their dates of rank be changed due to such transfers.

"Reserve officers, when on the active duty promotion list, shall be promoted in the same manner as are other officers on the active duty promotion list regardless of the length of their active duty service."

(8) Section 782 is amended—

(A) by amending subsection (a) to read as follows:

"(a) Each officer of the Reserve in an active status not on the active duty promotion list shall be assigned a running mate who shall be the officer of the same grade on the active duty promotion list who is next senior to him in precedence as determined in the manner prescribed in section 781 of this title. Officers who are extra numbers, who have twice failed of selection, or who have not been recommended for continuation under section 289 of this title shall not be assigned as running mates under this section."

(B) by amending clause (1) of subsection (b) to read as follows:

"(1) If a running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers loss of numbers, or fails to qualify for promotion, the new running mate shall be the officer of the same grade on the active duty promotion list who was next senior to the old running mate or if there be no such officer then the most senior officer in that grade on the active duty promotion list. If the old running mate was on a list of selectees for promotion, the new running mate shall be on a list of selectees."

(C) by amending clause (2) of subsection (b) by striking the words "of the regular Coast Guard, exclusive of extra numbers," and inserting in lieu thereof the words "on the active duty promotion list";

(D) by amending clause (3) of subsection (b) to read as follows:

"(3) If an officer of the Reserve is considered for promotion at approximately the same time as his running mate and fails of selection, fails to qualify for promotion after selection, or declines an appointment after having been selected for promotion and his running mate is promoted, the new running mate shall be the next senior officer remaining in the same grade on the active duty promotion list whose name is not on a list of selectees and who is eligible for consideration for promotion."

(E) by amending clause (4) of subsection (b) to read as follows:

"(4) If an officer of the Reserve was not considered for promotion at approximately the same time as his running mate, and the

Rank and precedence.
72 Stat. 1551.
14 USC 781.

Transfers.

Running mates.

Supra.

77 Stat. 186.

Reserve officer subsequently is considered and fails of selection or fails to qualify for promotion, such failure shall be deemed to have occurred at the same time as his running mate was considered. His new running mate shall be the next senior officer remaining in the same grade on the active duty promotion list whose name was not on a list of selectees at the time the original running mate was selected.”;

(F) by adding a clause (5) to subsection (b) to read as follows:

“(5) In any situation not expressly covered by this subsection or where the assignment of a running mate would result in an inequitable change in precedence, the Secretary may assign an appropriate running mate to effect the intent of this section that no unjust benefit or detriment will result to any officer from the operation of this section.”;

(G) by adding a clause (6) to subsection (b) to read as follows:

“(6) A Reserve officer on the active duty promotion list shall become the running mate of all the inactive duty Reserve officers who are junior to him and had a running mate in common with him at the time of his being placed on the active duty promotion list.”; and

(H) by adding a subsection (c) to read as follows:

“(c) The Secretary is authorized to adjust, as necessary, the dates of rank of Reserve officers not on active duty so that the dates will correspond with those of the running mates assigned to them in accordance with the provisions of this section. However, the dates of rank of those Reserve officers whose names are on a list of selectees for promotion to the next higher grade at the time of enactment of this subsection, shall not be adjusted until such time as the officers have been promoted. If overpayments of pay and allowances will have resulted from the adjustment of dates of rank, such overpayments shall not be subject to recoupment.”

(9) Section 784 is amended by designating the existing section as subsection (a) and by adding a new subsection (b) as follows:

“(b) Notwithstanding any other provision of law, a Reserve rear admiral shall become entitled to the pay and allowances of the upper half for duty performed from the date his running mate becomes so entitled.”

(10) Section 787 is amended—

(A) by striking out the first sentence in subsection (a) and inserting in lieu thereof the sentence “Officers of the Women’s Reserve in the grades of lieutenant (junior grade) and lieutenant failing of selection for promotion to the next higher grade, and all other Reserve officers after failing of selection for promotion to the next higher grade for a second time, may be retained in or eliminated from an active status in the discretion of the Secretary.”;

(B) by striking out the word “Other” in the second sentence and inserting in lieu thereof the word “Those”;

(C) by striking out the words between “officers” and “shall” in the second sentence and inserting in lieu thereof the words “who are not retained in an active status”; and

(D) by striking the column heading “Total commissioned service years” and inserting in lieu thereof the heading “Total years of commissioned service”.

(11) Section 790 is amended—

(A) by deleting the words “or her” after the word “his”;

(B) by deleting the words “in the Regular Coast Guard” after the word “mate”;

72 Stat. 1551.
14 USC 782.

Dates of rank,
adjustment.

Overpayments.

72 Stat 1552.

Failure of
selection; Secre-
tary’s discretion.

Promotion, tem-
porary or per-
manent.

(C) by deleting the word "Regular" before the words "running mate" in the two places they appear; and

(D) by deleting the words "in the Regular service" after the word "mate" in subsection (a).

(12) Section 791 is amended to read as follows:

"(a) While serving on active duty other than active duty for training, or other than for duty on a board, a Reserve officer shall not be eligible for consideration for promotion or for promotion under the provisions of this subchapter. Such an officer shall be considered for promotion and promoted pursuant to appropriate provisions contained elsewhere in this title. If so promoted, such an officer shall be considered as having been promoted under this subchapter and shall be considered as an extra number in the grade to which promoted for the purpose of grade distribution prescribed in this subchapter and shall not be counted in such distribution until he is released from active duty.

"(b) Notwithstanding provisions of subsection (a) of this section a Reserve officer who, at the time he reports for active duty has been recommended for promotion to the next higher grade under the provisions of this subchapter, shall be promoted to such grade subject to the same conditions as though selected under provisions of law applicable to a Reserve officer serving on active duty.

"(c) A Reserve officer who, at the time he is released from active duty, has been recommended for promotion to the next higher grade under provisions of law applicable to a Reserve officer serving on active duty, shall be promoted to such grade subject to the same conditions as though selected under provisions of this subchapter.

"(d) A failure of selection for promotion to the next higher grade shall be counted for all purposes regardless of whether it occurred under the provisions of this subchapter or under other provisions of law."

(13) The following new sections are added:

"§ 796. Failure of selection for promotion

"(a) A Reserve officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

"(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board after the error is discovered and is promoted, he shall be given the date of rank and precedence that he would have held if he had been recommended for promotion by the selection board which would have considered him but for the error.

"(c) Those officers of the Women's Reserve in the grades of lieutenant and lieutenant (junior grade) who are junior to the last officer selected by a board pursuant to subsection (i) of section 780 of this title shall not be considered to have failed of selection, and the names of such officers shall be submitted to the next ensuing selection board.

"§ 797. Promotion; acceptance; oath of office

"(a) An officer who has been appointed under the provisions of this subchapter is considered to have accepted such appointment unless delivery of the appointment cannot be effected.

"(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5, United States

Officers on
active duty, pro-
motions.
72 Stat. 1554.
14 USC 791.

Ante, p. 839.

Code, is not required to take a new oath upon his appointment in a higher grade.

80 Stat. 424.

“§ 798. Rear admiral; maximum service in grade

“A Reserve rear admiral, unless retained in or removed from an active status under other provisions of law, shall be removed from an active status on the date he completes five years of service in the permanent grade of rear admiral.”

SEC. 2. (a) Reserve officers in each grade who have been recommended as qualified for promotion under laws and regulations in effect the day before the effective date of this Act but not promoted to the grade for which they were recommended shall be placed on a list in the order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under the provisions of title 14, United States Code, as amended by this Act.

63 Stat. 496.

(b) Reserve officers who have failed of selection for promotion to the next higher grade under laws and regulations in effect the day before the effective date of this Act shall be deemed to have failed of selection for promotion to the next higher grade under the provisions of title 14, United States Code, as amended by this Act.

(c) The enactment of this Act does not terminate the appointment of any officer.

Approved September 18, 1970.

Public Law 91-403

AN ACT

To reimburse the Ute Tribe of the Uintah and Ouray Reservation for tribal funds that were used to construct, operate, and maintain the Uintah Indian irrigation project, Utah, and for other purposes.

September 18, 1970
[H. R. 16416]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to reimburse the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah for tribal funds that have been used for the construction, operation, and maintenance of the Uintah Indian irrigation project, Utah, computed and adjusted as follows:

Uintah Indian
irrigation project,
Utah.
Construction
costs, reimburse-
ment.

(a) With respect to construction charges, the tribal funds originally involved amounted to \$920,112.74. From that sum there shall be deducted the amount of \$275,864.25, which represents a reimbursement of tribal construction funds under a judgment of the United States Court of Claims for the portion of the construction costs chargeable against non-Indian lands. From the balance so calculated, there shall be deducted an amount equal to the construction charges against irrigable land (determined according to the approved designation of 1964) which were collected from the proceeds of sales of land and deposited in the tribal accounts. From the balance so calculated there shall be deducted \$1,250, which represents the tribal funds used to purchase the following described lands, title to which was taken in the name of the United States and which hereafter shall be held by the United States in trust for the tribe:

- west half southwest quarter southeast quarter southeast quarter section 18, township 1 south, range 1 east, containing 5 acres;
- south half southeast quarter northeast quarter northeast quarter section 36, township 1 south, range 4 west, containing 5 acres;
- northeast quarter northeast quarter southwest quarter section 32, township 1 north, range 1 west, containing 10 acres; and